

SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 22nd July 2015

CONTACT OFFICER: Michael Sims - Licensing Manager
(For all Enquiries) (01753) 477387
Ginny de Haan – Head of Consumer Protection and
Business Compliance
(01753 477912)

WARD(S): All

PART I **FOR INFORMATION, COMMENT AND DECISION**

CHANGES FOLLOWING THE INTRODUCTION OF THE DEREGULATION ACT 2015

1. **Purpose of Report**

For Members to note the changes to the duration of licences for Hackney Carriage and Private Hire Drivers and Operators, and the removal on restrictions on sub- contracting bookings outside the licensing authority area.

2. **Recommendation(s)**

That the Committee;

- (a) Note the changes to the duration of licences for Drivers and Operators
- (b) The removal of restrictions on sub-contracting outside the local authority area, and
- (c) To approve or grant where appropriate the grant of a 1 year licence and annual renewal

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

The Deregulation Act is to provide for the removal or reduction of burdens on businesses, individuals, public sector bodies and the taxpayer. As a result, changes introduced by the sections 10 and 11 of the Act aim to standardise the duration of licences for all Driver and Operator nationally. The changes also allow all licensed Private Hire Operators to sub-contract bookings to any other licensed Operator anywhere in England and Wales.

However it felt by the majority of licensing authorities that not all licence holders will want to apply for either 3 year licences/renewals for drivers and 5 year licenses /renewals for Operators and those new applicants and current licence holders should be given the option to request to renew on an annual basis rather than 3 and 5 years respectively.

The proposals within the report will to a certain extent reduce financial burden

on new applicants and current licence holders as well as allowing them the option for lesser period licenses and renewals.

3a. **Slough Joint Wellbeing Strategy Priorities –**

As the report outlines licence holders should be given the option as to whether they want to renew a licence annually or for the new 3 or 5 years periods. There are financial implications for the licence holders as not all will want to renew a licence for an extended period as they may choose not to be licenced for a period time as some currently do. In addition it is felt that if there is not an alternative to paying for a 3 or 5 year licence some individuals may decide not to be licensed, operate illegally posing a serious risk to the members of the public. The recommendations within the report will contribute to the following wellbeing themes.

- Economy and Skills
- Safer Communities

Cross-Cutting themes:

Approving the recommendations will promote the benefits of living and working in Slough and will contribute to the cross cutting theme of **Improving the image of the town.**

3b. **Five Year Plan Outcomes**

The report outlines fully the reason for the recommendation and that of the risk posed to the public of individuals possibly working illegally which will therefore contribute to the Five Year Plan with the specific outcome of:

- Slough will be one of the safest places in the Thames Valley

4. **Other Implications**

(a) **Financial**

There will be financial implications by the introduction of the Deregulation Act 2015. However it is not known at this time as to how many new applicants or current licence holders will wish to apply for a new 3 or 5 year licence and how many will request to continue to renew their licence annually.

The financial implications will be known after the first year of the introduction and implementation of the (2015) Act

Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
As detailed in Point 2.	The new provisions only give licensing authorities' limited discretion to issuing lesser length licenses. In addition not all licence holders will wish to apply and pay for a 3 or 5 year	By approving the recommendations this will ensure that licence holders and new applicants can apply for yearly licenses reducing financial burden and

	<p>licence. It is also felt that that if there is no alternative to applying for 3 or 5 year licence some licence holders may decide to operate illegally thus posing a serious risk to the public.</p>	<p>ensuring that they continue to work and operate legally.</p>
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(b) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

(c) Equalities Impact Assessment

An initial EIA has been completed which indicates that there are no negatives or adverse impacts on any equality group.

5. Supporting Information

Current Position Private Hire and Hackney Carriage Drivers.

5.1 Private Hire Driver

The requirement to licence private hire drivers is set out on the Local Government (Miscellaneous Provisions) Act 1976, and a licence can be granted for up to 3 years, although a shorter period can be granted.

Hackney Carriage Driver

The Town Police Clauses Act 1847 provided that a licence should last no longer than a year, although a shorter period can be granted to ensure all licences expire on the same date (Town Police Clauses Act 1889)

5.2 The Department of Transport issued Best Practice Guidance in October 2006, and this confirmed that annual licences may be preferred by some drivers to make it easier to for drivers to move jobs or to a different area, or because some may not easily pay a 3 year licence fee.

5.3 Current Position with Private Hire Operators

A private hire vehicle can only be dispatched to a customer by a private hire operator. The operator is required to hold an Operator’s licence under Local Government (Miscellaneous Provisions) Act 1976. The licence itself can be granted for up to 5 years, although a shorter period can be granted. The Council, in common with others, grants annual licences to enable better control over applicants who may be convicted of offences during the life of a licence.

5.4 As can be seen the current provisions of the 1976 Act gives discretion to the district council to grant a licence for a lesser period of time for both types licence. In Slough it was resolved some considerable years ago that licenses would be grant for one year and renewed on an annual basis which is the case to date.

5.5 **New position with the Deregulation Act 2015 (From 1st October 2015)**

Driver Licenses

The effect of the amendments to both private hire driver licences and hackney carriage driver licences is to allow the Council to grant a 3 year licence *or such lesser period as the Council think fit appropriate in the circumstances of the case.*

Private Hire Operators

The effect of the amendments to private hire operators is allow the Council to grant a 5 year licence *or such lesser period as the Council think fit appropriate in the circumstances of the case.*

5.6 The Department for Transport (DfT) has not issued any formal guidance on the introduction of the new provisions within the Deregulation Act 2015. It has however issued a statement published on 2nd June 2015 in response from a request for clarification from the National Association of Licensing Enforcement Officers (NALEO), which stated – *“DfT have today indicated, in response to enquiries from NALEO and other Trades groups members, that they are considering whether Best Practice Guidance should be updated to reflect the changes brought about by the “Taxi and Private Hire” clauses of the Deregulation Act 2015. DfT also state that other matters in the guidance may need revision and that interested parties will be consulted prior to any new guidance being issued”.*

5.7 The amendments give Councils’ discretion as to the duration of a licence. However, to grant a shorter one must require consideration of the “appropriate in the circumstances of the case” in other words on a case by case basis. This may be based on a specific request from an applicant or because the Council has concerns in relation to that particular applicant.

5.8 In light of this it requested that the Committee approve the following:

“That where a specific request is made by a new applicant for or current licence holder of a private hire or hackney carriage drivers licence or an Operator’s licence to be issued for a period of 1 year this will be granted as appropriate in the circumstances of the case”.

5.9 By way of comparison, some other Berkshire Authorities have implemented 1 and 3 years licence grants and or renewals with appropriate fees set at cost recovery level and details of these are detailed in **Appendix A**, albeit fees for 5 years Operator licenses have yet to be set.

5.10 The Council will now need to review its current fees and consider fees for 3 and 5 year grants and renewal as well as possible new 1 year renewal fee. A report on the proposed new fees will be put before Cabinet in September this year.

Sub-Contracting

Current Position.

- 5.11 Currently Licensed Private Hire Operators can only sub-contract a booking to another licensed Operator licensed by the same local authority.
- 5.12 This area has been heavily litigated and as a result the the Deregulation Act 2015 has consolidated the requirements.

New position with the Deregulation Act 2015 (From 1st October 2015)

- 5.13 In summary a licensed Private Hire Operator will from the 1st October 2015 be able to sub-contract a booking to any licensed Private Hire Operator in another local authority area, including London and Scotland.
- 5.14 Although there has been some opposition to the amendments, from a public safety perspective, it has been felt that because the law requires the vehicle and driver supplied to be licensed and therefore must be suitable (in the case of the vehicle) and 'fit and proper' (in the case of the driver), this should address any issues around public safety.
- 5.15 Finally, the first Private Hire Operator commits an offence if he knows that the second Private Hire Operator is going to use an unlicensed vehicle or driver to fulfil the sub-contracted booking.

6. Comments of Other Committees

None.

7. Conclusion

The Committee is therefore requested to note the changes within the report and to approve the recommendation for the grant and renewal of 1 year licenses where a specific request has been to do so.

8. Appendices Attached

'A' - Licence lengths and fees form Berkshire Authorities

9. Background Papers

Local Government (Miscellaneous Provisions) Act 1976

Deregulation Act 2015