

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2015 - 2016**

**LICENSING COMMITTEE**  
**28th July 2015**

**REPORT OF:**  
**Service Director**  
**Public Health & Protection**

<u>Part I</u>	<u>Item No. 5</u>
<b>Deregulation Act 2015; Implications for licensing of Joint Hackney Carriage/Private Hire Driver Licences &amp; Private Hire Operators</b>	

**1. PURPOSE OF THE REPORT**

The purpose of the report is to update Members on provisions contained within the Deregulation Act 2015 (Sections 10 & 11), which introduce:-

- 3 year licences for Hackney Carriage/Private Hire Vehicle Drivers;
- 5 year licences for Private Hire Operators and
- Permits cross border trading for Private Hire Operators

**2. RECOMMENDATION**

Members are requested to: -

- (i) Note the content of the report in respect of the implications for the introduction of the Deregulation Act 2015 (Sections 10 & 11);
- (ii) Commend to the Executive the proposals of the Service Director Public Health & Protection for amendments to policy in respect of Joint Hackney Carriage/Private Hire Vehicle Drivers and Private Hire Operators to accommodate the implementation of the legislation as follows:-
  - (a) permit a Disclosure & Barring Service (DBS) check to be valid for a maximum period of 3 years for purpose of determining applications for Joint Hackney Carriage/Private Hire Vehicle Driver Licence and Private Hire Operator Licences;
  - (b) permit a Driver Vehicle Licensing Agency (DVLA) check to be valid for a maximum period of 3 years for purpose of determining applications for Joint Hackney Carriage/Private Hire Vehicle Driver Licences;
  - (c) amendments to be effective from 1st October 2015

### 3. **BACKGROUND**

The current duration of Hackney Carriage/Private Hire Driver Licences and Private Hire Operator Licence is 2 years. This was introduced 1st February 2013, in conjunction with the introduction of the BTEC qualification for new Hackney Carriage/Private Hire Vehicle Driver Licence applicants.

As part of the process review conducted, a decision was taken to align Disclosure & Barring Service (DBS) and Driver & Vehicle Licensing Agency (DVLA) checks to a 2 year period, to run concurrent with the revised licences. It was considered that this was a proportionate response, which would have the impact of reducing the number of licence transactions; reducing cost for licensed trade but maintaining the focus on 'fit & proper person' requirement to protect public safety.

#### **Implications of Deregulation Act 2015**

Section 10 of the Deregulation Act will take effect from 1st October 2015 and makes provision for :

- Hackney Carriage/Private Hire Vehicle Driver Licences to have a duration of 3 years;
- Private Hire Operator Licences to have a duration of 5 years

The legislation also makes provisions for 'exceptions', in that both Driver and Operator licences could be granted for lesser periods, but only in the circumstances of an individual case and not as a blanket policy.

The policy in Rhondda Cynon Taf is to consider the 'fit & proper person' criteria which Drivers and Operators are required to meet. Where the standard is achieved, a licence is granted for the period, as dictated by the policy statement, currently 2 years for Driver and Operator respectively.

Where the standard is not met, the application is refused and the applicant has leave to appeal to Magistrates Court. It is not current practice to consider the grant of a licence for a trial period of time as this is considered to conflict with the statutory responsibility for protection of public safety.

The 'exception' which is contained within the new legislation could apply to situations such as a driver with a 'time limited medical report', or a 'time limited' visa/work permit for example. It could also apply to other criteria, but only on an individual basis. It will be at the discretion of the Licensing Authority to determine whether a lesser period than that specified in the legislation is appropriate, subject to the circumstances of the individual and no provision will be made to offer alternatives, (such as annual licences) as part of the application process. The legislation does not permit Licensing Authorities to make

a blanket policy for the issue of licences for periods other than those specified and to do so would be ultra vires.

### **Introducing the Changes**

There is no discretion afforded to Licensing Authorities regarding the introduction of the changes. However, liaison between Welsh Authorities has demonstrated that there will be different approaches to the implementation, which will be dictated by their existing manner of working.

A review of working practice in Rhondda Cynon Taf has been conducted and it is considered that the move to 3 year / 5 year licences respectively will have no adverse impact on public safety as a result of other checks and balances in place to maintain 'fit & proper person' criteria.

Licensees are already required by condition of licence to notify the Licensing Authority of any conviction during the currency of a licence. In addition, a failure to do so requires the application to be determined by this Committee, with the option for Members to impose a punitive sanction, or even refuse the application if considered appropriate.

An analysis of Driver Licence reviews has also been conducted, with the following outcome:

#### **Licensing Committees held from 1/4/12 to 30/3/15**

No of Cttees Held in Period	No of Reviews of Licence	Source of Information for Review				
		SWP	LEO	ITU	TS	DWP
23	17	8	6	1	1	1

Of the 17 reviews undertaken, only one was initiated as a result of a failure to disclose offences.

Data analysis of submitted applications during the period confirms that of 1108 applications received, 45 were subject to a refusal, representing approximately 4%. The analysis indicates that the primary filter for 'fit & proper person' criteria is the application process, with enforcement & sanction during the currency of the licence being an important, but lesser used means of control.

In view of the foregoing, it is therefore considered appropriate to extend the period of the DBS & DVLA checks to 3 years, to run concurrently with the expiry of Joint Hackney Carriage/ Private Hire Vehicle Driver Licences.

Medical checks will be maintained to the same frequency currently applied i.e.

Up to age 45 - Initial medical  
 Age 45 to - 65 every 5 years  
 Age 65+ - Annually

Systems are currently in place to track expiry of any current medical certificate and renewals are requested at appropriate times. Should a licensee fail to submit a satisfactory medical certificate by the appointed date, Licensing Enforcement Officers have powers to suspend the licence until such time that the position is resolved.

## **Way Forward**

Processes have been reviewed to ensure that systems can accommodate changes, without compromise to public safety. Having confirmed that effective control can be maintained, a report will be prepared for the Executive to amend the policy to reflect the revised valid periods for DBS & DVLA checks.

At this time, it is proposed that no amendment be made to the fee payable for such applications. However, all 'Taxi' fees will be subject to review for April 2016 and it is likely that adjustments will be made at this time, which will take account of the impact of the extended licences. (Members are reminded that fees must be set at a level of cost recovery only.)

The remaining provision of the legislation (under Section 11), which permits cross border trading for Private Hire Operators and complimentary Private Hire Vehicles will have no implications for internal processes and will be managed via routine enforcement activity.

There will clearly be benefits to the Licensed Trade, by reducing the frequency of the application process, and extending trading area which are also likely to impact on the resources of the Licensing Team.

A further benefit to the Trade has also emerged from the process, where it has been possible to introduce an 'on line' instant check for DVLA Driving Licences. This has resulted in a cost saving of £5 to applicants and a potential reduction in 'turnaround time' for application processing.

A short explanatory paragraph has been included in the Taxi Newsletter for July, to inform the trade of the forthcoming changes.

## **Conclusion**

Arrangements are in hand for the revision of internal processes to facilitate the implementation of the legislative changes for 1st October 2015.

**This will include the submission of a report to the Executive to recommend the following changes to policy in respect of Joint Hackney Carriage/Private Hire Vehicle Driver Licences and Private Hire Operator Licences:**

- (a) permit a Disclosure & Barring Service (DBS) check to be valid for a maximum period of 3 years for purpose of determining applications for Joint Hackney Carriage/Private Hire Vehicle Driver Licence and Private Hire Operator Licences;

(b) permit a Driver Vehicle Licensing Agency (DVLA) check to be valid for a maximum period of 3 years for purpose of determining applications for Joint Hackney Carriage/Private Hire Vehicle Driver Licences;

(c) amendments to be effective from 1st October 2015

**Paul J Mee**  
**Service Director, Public Health & Protection**

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