

To: General Purposes Licensing Committee
Date: 14 September 2015
Report of: Head of Community Services
Title of Report: Deregulation Act 2015

Summary and Recommendations

Purpose of report: To inform Committee of the Deregulation Act 2015 and its impact on the Taxi Licensing function.

Report Approved by:

Finance: Paul Swaffield
Legal: Daniel Smith

Policy Framework: Vibrant Sustainable Economy
Policy on the Relevance of Warnings, Offences,
Cautions and Convictions

Recommendation(s): That the General Purposes Licensing Committee resolves to:

1. note the contents of the report; and
2. endorse the movement to a presumption in favour of a 3 year driver licence as required by the Deregulation Act 2015 and the steps being taken in that context to ensure that the council has adequate up to date information to inform the licensing process.

Additional Papers:

Appendix 1: Deregulation Act 2015 Section 10 and Section 11

Introduction

1. The Deregulation Act 2015 provides for the removal or reduction of burdens on businesses, civil society, individuals, public sector bodies and the taxpayer.
2. These include measures relating to general and specific areas of business, companies and insolvency, the use of land, housing, transport, communications, the environment, education and training, entertainment and alcohol, public authorities and the administration of justice.

3. In addition, the Act repeals legislation that, in the view of Parliament, is no longer of any practical use. The Act comes into force on 1 October 2015 and two sections of this Act relate to the Hackney Carriage and Private Hire Trade that will impact on the Taxi Licensing function. A copy of the relevant sections of the 2015 Act is attached at Appendix One.

Background

4. Presently, this Authority licences drivers, vehicles and operators annually. This enables the Authority to review on an annual basis that all applicants and licence holders are “fit and proper” to hold a licence
5. Section 10 of the 2015 Act requires a Licensing Authority to work on the presumption that the grant of a Hackney Carriage or Private Hire Driver licence will be for a maximum duration of three years, and a maximum duration of five years for a Private Hire Operator licence. The licensing of vehicles is not included in the 2015 Act.
6. The Act permits an Authority to reduce the maximum duration, but only on a “case by case” basis, rather than determine that all licences or categories of applicants will be subject to a shorter duration.
7. Section 11 relates to the provision for a Private Hire Operator to sub-contract a “booking” to any other licensed Private Hire Operator whether or not the secondary Operator is locally licensed or licensed by another Authority. This Section amends the current wording of the Local Government (Miscellaneous Provisions) Act 1976 Part II.
8. Furthermore, Section 11 provides guidance in relation to the first Operator will be committing an offence if he/she knows that the secondary Operator is using unlicensed vehicles or drivers.

Relevant Considerations

9. On the face of it the requirement of Section 10 appears to be in direct opposition to the requirements of the Serious Case Reviews and inquiries carried out in various cities following the investigations and convictions of those linked to sexual exploitation of children.
10. The reviews have called for Licensing Authorities to implement or continue to carry out a robust vetting of all applicants and current licence holders in order to promote public safety and to promote public confidence in the Authority’s vetting of licence holders, and to introduce Safeguarding and Awareness Training.
11. Our current annual vetting process meets with the recommendations of these Serious Case Reviews and we provide a level of Safeguarding and Awareness Training deemed to be “best practice” by the National Working Group, for all new driver and operator applications.

12. Officers are of the opinion that any weakening of our current procedures could impact on the objectives we seek to promote, and undermine the findings and recommendations of the Serious Case Reviews.
13. In order to assist this Committee, the views of the Local Government Association (published in April 2015) are provided below, which echo the concerns raised by local Officers in relation to the licensing of drivers:

“Section 10 of the Bill extends the standard duration of a taxi or private hire driver licence to three years. The LGA supported this proposal in principle as it has the effect of reducing burdens for law-abiding firms and drivers who provide a quality service. However, we raised concerns that it was being introduced without first addressing the existing gaps in vetting drivers. The LGA briefed the Government on the importance of councils being able to check drivers against the barred lists and the police sharing information about criminal investigations into drivers.

Section 11 allows minicab firms to subcontract bookings to firms licensed in a different district. Previously, sub-contracting could only take place between firms licensed in the same district. The LGA strongly opposed the clause on the grounds that it had been brought forward without the accompanying safeguards deemed necessary by the Law Commission’s review of taxi licensing. For example, a requirement for the firm with whom the booking is made to advise the customer if it is being sub-contracted.

The LGA proposed amendments which would mitigate against the risk of subcontracting. These would have required the consent of the hirer before passing on the booking and allowed a licensing authority to exercise its powers over a licensed PHV or taxi operating in their area, even if the licence was issued by another licensing authority. After a vote, these amendments were unfortunately taken no further. However, the Government said it would continue to work on a programme of reform based on the Law Commission’s full report. The LGA intends to lobby the next government to bring forward a reform bill based on the Law Commission’s report at the earliest opportunity.”

14. The Committee will note from other reports provided at this meeting that the proposals put forward by the Law Commission were not included in this Government’s Queens Speech.

Compliance with the 2015 Act

15. The Committee is informed that the Authority will implement the requirements of the 2015 Act, with effect from 1st October 2015 and adopt the statutory presumption in favor of the granting of three year licences.
16. There are no plans to set reduced fees for the issue of a licence of a longer duration than currently issued, as Officers wish to take a longer term view of the income levels over the next few years, in order to ensure the service is adequately resourced.

17. However, in order for the Authority to be satisfied that a three year driver licence may be awarded, we recommend that the applicant must be able to demonstrate a higher awareness of the issues relating to safeguarding by having undertaken the Safeguarding Awareness and Training to be hosted by the Oxfordshire Safeguarding Children Board (OSCB).
18. Furthermore, should a driver apply for a three year licence, he or she will be required to provide a new Enhanced Disclosure & Barring Services Disclosure and Medical Report. This is to ensure that the initial issue of the three year licence has been carried out with all relevant background checks (including the Enhanced Disclosure & Barring Services Report) having been satisfied, and are synchronized to the start and expiry dates of the licence.
19. Any applicant seeking a three year licence will also be required to undertake an annual appointment (no later than the anniversary of the grant of the licence) with the Licensing Officer to submit a written declaration that he or she has not been nor are currently, the subject of any criminal or motoring offences since the grant of the licence.
20. Such a procedure will enable the Authority to maintain the current robust vetting processes and ensure that any relevant matters arising are promptly dealt with in accordance with the Council's Policy on the Relevance of Warnings, Offences, Cautions and Convictions.
21. The necessary amendments will be made to the Hackney Carriage & Private Hire Driver Licence Application Pack to detail the above mentioned matters.
22. Officers do not hold such concerns in relation to extending the licence duration of a Private Hire Operator to a maximum of 5 years, and the option of applying for such a licence will be listed within the Private Hire Operator Application Pack.
23. Officers do not hold concerns in relation to Section 11 of the Act, as this Authority already experiences drivers and vehicles licensed as Hackney Carriage elsewhere working in the city through our Private Hire Operators, and Officers do not envisage Oxford licensed operators passing work to operators licensed beyond the city boundaries as the local operators appear to look to increase the size of their own fleets, rather than sub-contract work to other companies.
24. Furthermore, data provided to this Committee in relation to Officers proposals to amend the current criteria applicable to licensed vehicles reveals that the number of Private Hire drivers and vehicles licensed by our neighbouring authorities is significantly small when compared to those licensed with them as Hackney Carriage (many of whom already predominantly work in the city).

Legal Implications

25. Any legal implications are already detailed within this report, and the legal advisor to the Committee will be available to provide advice at this meeting.

Financial Implications

26. Any financial implications contained within this report will be met within existing budgets.

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