

Report of Head of Licensing and Registration

Report to Licensing Committee

Date: 12 March 2013

Subject: INFORMATION REPORT – Taxi and Private Hire Licensing Administration Process for Driver Licence Renewals

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. This is an issue often raised with Members by the trade and has recently been brought to the attention of the Chair of the Licensing Committee who has asked this matter be brought forward for Members information.
2. This report is to inform Members of the Policy and administrative process undertaken at the point of renewal of a Private Hire or Hackney Carriage Driver licence so that they have an understanding of the process and the necessity for it.
3. The report also details the statutory responsibility of the Council and how Officers might exercise discretion to the policy when appropriate.

Recommendations

4. That Members note the report and make any observations they may have.

1 Purpose of this report

- 1.1 To inform Members of the administrative process for the renewal of a Private Hire or Hackney Carriage driver licence and the necessity of the process and control measures.
- 1.2 Members will also be made aware of the volume of renewals and how Officers make exceptions to the process for drivers when appropriate.

2 Background information

2.1 Both Private Hire drivers and Hackney Carriage drivers currently renew their driver licence annually by attending the Licensing Office and making formal application (the issue of 3 year licences is the subject of a report to the Licensing Committee in April 2013).

2.2 It is a statutory requirement of the Local Government (Miscellaneous Provisions) Act 1976, Section 51(1) and 59 (1) not to grant a licence:-

(a) Unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or

(b) To any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

That statutory requirement is the same at the time of first application and subsequent renewals.

2.3 The procedure for receiving a Private Hire or Hackney Carriage driver licence is reproduced from the Council's 'Guide to Obtaining a Licence' below.

"Each year you will receive a renewal form and it is your responsibility to ensure that your licence is renewed before its expiry date.

If for some reason you do not receive a renewal form, it remains your responsibility to renew your licence before its expiry date.

Your completed renewal form must be submitted in person at the Taxi and Private Hire Section no later than the date indicated.

In order to proceed with the renewal, you must:

- *Ensure your renewal form is stamped and signed by your Operator*
- *Produce your current Private Hire vehicle licence*
- *Produce a valid Certificate of Insurance covering the use of Hire & Reward*
- *Produce the current MOT certificate as applicable*
- *Produce a current tail lift certificate as applicable*
- *Produce the Registration document (V5C)*
- *Pay the applicable fee payable by cash, debit card or cheque, made payable to Leeds City Council.*

IMPORTANT - If you do not renew on time the vehicle will be treated as a 'new' application and you will need to go through the same procedure as that specified for the grant of a licence. If the vehicle is over 5 years old, the licence would not be granted as per the Age Criteria condition."

- 2.4 The footnote above titled "important" is in a reality a very important issue for drivers beyond the possibility of the process being treated as a 'new application'. Many insurance policies clearly state that for the driver to be insured to act as a Private Hire or Hackney Carriage driver they must be the holder of such a licence.
- 2.5 The Council has a statutory responsibility to ensure that vehicles are covered by insurance at the point of licensing by virtue of Section 48 (1)(B) Local Government (Miscellaneous Provisions) Act 1976 for Private Hire vehicles and Section 47(1) of the Local Government (Miscellaneous Provisions) Act 1976 for Hackney Carriage vehicles and additionally that both types of licensed vehicle comply with the requirements of Part VI of the Road Traffic Act 1988.
- 2.6 In effect that means if a driver licence expires and the driver is involved in an accident they may not be covered by insurance for use of a licensed Private Hire vehicle or Hackney Carriage vehicle on the public road.
- 2.7 The Council cannot backdate a driver licence application as that would create a misleading statement and create potentially serious litigation issues for the Council.
- 2.8 Existing Council policies in respect of 'English language testing' Private Hire driver knowledge training, DBS checks (formally CRB), medical test and Driver Standard Agency test for example, direct that they should be applied at the point of a new application, which includes expired licences.
- 2.9 Such circumstances occasionally arise with licensed drivers who have family abroad and who may not be able to attend the office to renew their licences.

These occurrences are catered for in the following ways;

Planned absence

A licensed driver who is aware in advance that they will not be able to attend the Licensing Office at the time of renewal, can apply to renew their licence as normal up to 6 weeks prior to the expiry date.

Anything further to the 6 weeks and the licence holder is still able to apply to renew with the relevant documentation and applicable fee to renew their licence. However the Taxi and Private Hire Licensing Section will renew the licence within the 6 weeks prior to the expiry date in the applicants absence and retain the licence until the applicant can attend the Licensing Office in person. Upon attending, the applicant must present both parts of their drivers licence and proof of travel i.e. tickets, passport with entry & exit stamps, booking forms etc to qualify his period of absence.

Unforeseen circumstances

A licensed driver who has to leave the country urgently and unexpectedly and therefore fails to renew their licence prior to the expiry date must attend the Licensing Office in person upon their return. Upon attending, the applicant must present both parts of their drivers licence and proof of travel i.e. tickets, passport with entry & exit stamps, booking forms etc along with evidence of the urgency.

- 2.11 The Taxi and Private Hire Licensing Section are unable to renew a licence that has expired therefore the applicant must submit a new application for a drivers licence which may be 'fast tracked'.
- 2.12 It is a regular occurrence that Officers make exceptions to the policy in respect of the requirements identified at 2.6 but will insist on that being undertaken, for example where there has been a failure to report convictions or other requirements placed upon a licence particularly if they have never undertaken the 2008 revised Private Hire 'training and testing' requirement.
- 2.13 However even in the vast majority of cases the licence is re-granted for a period of 3 months to enable the applicant to undertake the appropriate test or await the return from DBS. It is not too unusual for this to be extended on some occasions to accommodate the reasonable personal needs of the driver.
- 2.14 The Section will handle 5008 Private Hire renewals and 1023 Hackney Carriage driver renewals on the figures available at the time of writing.

3 Main issues

- 3.1 The whole of the application process and policy was subject to consultation in 2011 and approved by the Licensing Committee on 16 October 2012.
- 3.2 The statutory responsibility of the Council for public safety cannot be overlooked for matters of personal convenience but can and are being appropriately managed within the approved policies of the Council and favourable decisions made by Officers within the scheme of delegation.
- 3.3 In the event of dissatisfaction with a requirement imposed at this stage of a renewal application the applicant can appeal that decision to the Magistrates Court.
- 3.4 Examples of two previous cases why this process is essential are:-
 - When a driver passed away, but the driver's family continued to renew the Hackney carriage licence and used the licence illegally.
 - Family who have attempted to renew a licence, stating the driver is abroad but he was actually in prison.
- 3.5 Application in person is essential and the requirement to renew the licence in person was introduced as a way to prevent deceptions, as it is a personal licence, we expect the driver to accept responsibility for it.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Completely undertaken in 2011 as part of the review of the application process and policy.
- 4.1.2 [The report presented to the Licensing Committee on 16 October 2012, including the results of the public consultation, can be found via the link below.](http://democracy.leeds.gov.uk/ieListDocuments.aspx?CId=163&MId=5775&Ver=4)
<http://democracy.leeds.gov.uk/ieListDocuments.aspx?CId=163&MId=5775&Ver=4>

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 Considered as part of 4.1 in the 2012 process.

4.3 Council Policies and City Priorities

- 4.3.1 The Taxi & Private Hire Licensing policies create the principles the Council will use to exercise its functions, mainly under the Local Government (Miscellaneous Provisions) Act 1976, but also under other associated Acts of Parliament. Applicants for licences are expected to read the policy before making their application and the Council will refer to the policy when making its decisions.

- 4.3.2 The Taxi & private Hire Licensing policies contribute to the following aims:

By 2030, Leeds will be fair, open and welcoming

- Local people will have the power to make decisions that affect them
- There is a culture of responsibility, respect for each other and the environment
- Our services meet the diverse needs of our changing population
- Everyone is proud to live and work

- 4.3.3 The Taxi & private Hire Licensing policies contribute to the following city priorities:

Best city ... for communities

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.4 Resources and Value for Money

- 4.4.1 Considered during the approval process in October 2012 referred to at 4.1.2.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The legal statutory requirements placed upon the Council are previously set out in the earlier parts of this report.
- 4.5.2 Where a change to policy cannot be considered as an administrative change, it will need to go to Executive Board for approval.

4.6 Risk Management

- 4.6.1 The decisions taken by officers can be challenged by appeal through the Magistrates' Court and further appeal to the Crown Court.

4.6.2 The policy in question has been the subject of public and trade consultation and considered by the Licensing Committee as recently as October 2012. There have been no exceptional circumstances to report that would impact upon the Licensing Committee's previous decision. The adverse effects or other risk to the Council with the existing policy are low.

5 Conclusions

- 5.1 The report demonstrates that the policy and process which have evolved during the past 12 years has been considered and approved by Members as recently as October 2012 following extensive consultation.
- 5.2 The line between meeting personal circumstances of the trade and the statutory obligations of the Council should not become so muddled that the element of risk is unacceptable or the administration process becomes clogged with requests that are simply of convenience and not urgent.
- 5.3 Officers can demonstrate that appropriate decision making is in place and exemptions are often made to the whole or part of the policies.
- 5.4 The report asks that Licensing Committee considers the processes are necessary and fairly and appropriately administered.

6 Recommendations

- 6.1 The Members again note the policy with any observations they might have.

7 Background documents

- 7.1 There are no unpublished background documents that relate to this matter.