

Report of Head of Licensing & Registration

Report to Licensing Committee

Date: 11 March 2014

Subject: 1) 3 year driver licences to Private Hire and Hackney Carriage drivers.

2) Third party renewals for Private Hire Driver and Hackney Carriage Driver personal licences.

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. A report was presented to Licensing Committee on 13 May 2013, which set out options for making available '3 year licences' to drivers. Members debated the issues and resolved to form a Working Group to more closely examine all of the options and consult further with the trade.
2. The Working Group met on 6 separate occasions with representatives of the Private Hire and Hackney Carriage trade and Private Hire Operators, taking account of the advantages, concerns and potential risks to public safety. An open invitation was also extended to all Elected Members of the Council.
3. Since the original report was presented to Licensing Committee there has been improvements to the I.T. system within the Disclosure and Barring Service (DBS) which could allow annual on-line DBS checks to be undertaken on licensed drivers. In effect, this removes a concern whereby Hackney Carriage drivers do not have to report convictions as a condition upon their licence under existing legislation.

4. A policy has been developed within the body of the report for full Licensing Committee to consider and which seeks to satisfy the concerns that had been carried forward into the Working Group in respect of public safety with such a three licence year grant.

Recommendations

5. That Members consider the principle of '3 year licences' and the proposed policy recommended by the Working Group and make any appropriate comments before considering release of the proposals for further consultation of 1 month.
6. That Members note and approve the recommendation of the Working Group in respect of third party driver renewals that it is a key public safety measure that all personal licence renewals are undertaken in person and not by a third party.

1 Purpose of this report

- 1.1 To inform Members of all of the legislative, administrative and financial issues around granting a '3 year licence' to PHD and HCD's and the recommendation of the Working Group formed to more closely examine the opportunities and risks.

2 Background information

- 2.1 PHD and HCD licences can be granted on an annual basis or to a maximum of three years. The Taxi & Private Hire Licensing Section has only recently acquired a licensing system capable of granting three year licences and representations have been made by some members of the trade to introduce such a policy.
- 2.2 A report was submitted to the Licensing Committee on 13 May 2013 setting out the options for change and identifying areas of concern, accompanied by detailed profiling information on the trade.
- 2.3 That profile information is reproduced in this report for full Committee to consider because it formed an important part of the Working Group considerations and their recommendations. **Appendix 1.**
- 2.4 An important advancement has taken place within the DBS since the first report submitted to Licensing Committee in that drivers can elect to undertake annual on-line DBS checks which enables a Council to receive on-line alerts if a driver's conviction status changes or other important information is recorded against him, that might affect public safety considerations.
- 2.5 Working Group members were also asked to consider the issues around the current necessity for drivers to make personal renewal applications and whether or not it could be undertaken by a third party.

3 Main issues

3.1 Public safety considerations

- 3.2 The 'fit and proper' person determination prior to granting a PHD or HCD licence on the first occasion lies largely outside of this policy consideration. It does however come into consideration, in part, when developing a '3 year licence' policy.
- 3.3 Officers have been very clear throughout the process how important it is to maintain regular and detailed checks on drivers to maximise public safety. It is that statutory function which comes ahead of trade preference.
- 3.4 3 year licences in particular

3.5 The comments in the preceding paragraphs are as relevant, it not more so, to 'third party renewals' as they are to the consideration of '3 year licences'.

3.6 Members will recall the previous legal advice given at Committee on behalf of the City Solicitor when the following points were highlighted:-

- At the point of renewal the Council still has a statutory responsibility to apply the 'fit and proper' test to the applicant.
- With a third party renewal, the applicant cannot be interviewed and facts established.
- The potential for fraud is increased.
- The applicant could be in custody.
- The licence could be held and used by an unlicensed person.
- Once issued establishing the facts at a later date are easily clouded and accountability difficult to establish.

3.7 Members heard of the current procedure in place to accommodate drivers who were making planned visits out of the country at the time of renewal and those who had to leave in emergency situations. It was considered that the approach taken by licensing staff was appropriate, properly exercised and met the needs of the trade and the Council and that view is reflected in recommendation 6.2.

3.8 The tables at **Appendix 1** appeared in the original report, and it is these trade profiles that formed one of the most important parts of the Working Group considerations in reaching its recommendations. It was felt essential that there was a definable period of excellent driver behaviour before considering the grant of a 3 year licence.

3.9 Working Group members, having been informed of the DBS changes, felt that a balance could be drawn between improved administration process offering service improvements to the trade and a thorough monitoring process which did not compromise public safety. Those Members wished to highlight in this report that public safety should not be compromised at any stage of such a process but on the basis of the proposed policy it would be appropriate to:-

- a) Recommend to the full Licensing Committee the grant of 3 year licences in principle.
- b) In recommending the underlying policy the Working Group considered it essential to maintain public safety and there needed to be in place strong guidance to ensure that the policy is applied to the more professional drivers.

3.10 The essence of the policy

3.11 'Five years continuous good service with Leeds City Council.'

This means service as either a PHD or HCD, or a combination of both, but only with this Authority, in order to demonstrate a maintained standard of public safety, professional service and compliance with all of the legislation, Byelaws, Council conditions and administrative processes.

3.12 'Good service' – proposals

'Good Service' can cover the whole range of expectations of a licensed driver but particularly cases where it would be considered more appropriate to ensure regular face to face accountability with licensing Officers:-

- Where the driver has previously failed to report a matter which is a condition on their licence or required by a relevant Act of Parliament.
- Where a driver is found to be or has been in possession of more than one DVLA licence in contravention of DVLA controls.
- Where there is conflict with any of the Council's policies relating to convictions, training requirements or driver remedial training policy.
- Where a licence is revoked for any reason, or suspended as part of a Court finding or Council sanction (or where a period of suspension was imposed instead of revocation).
- Where at the point of renewal the PHD/HCD licence is suspended either as part of an investigation or prosecution by this or any other Authority.
- Although it is not a condition upon a HCD to report matters in the same way as a PHD, the public safety test should still apply and where there has been a non- disclosure of such an incident by a HCD the same principles should be met at all times as a consideration in granting a 3 year licence to a HCD.
- Where there has been a distinct neglect or failure to appropriately follow the administrative process in licensing functions. On this point Members are reminded of the fast-track renewal process the Section has in place for those drivers who pre-plan their absence with the Section or who have evidenced supported reasons for a short break in the

continuity of their licence and how Officers recognise the continuity and value of some accreditations and documents.

Although the list of examples above cannot be exhaustive they would constitute a break in 'good service' at any time during the lifetime of a licence. If the 'good service' principle is broken the licence holder would revert to the starting point of the qualifying period again.

3.13 The process steps

- Prior to the grant of a 3 year licence, a full enhanced DBS disclosure must take place with this Authority and the applicant must also demonstrate that they have 'signed up' to the DBS on-line facility. This must be renewed each year and a failure to demonstrate this had been done would normally result in the suspension of that licence until a further full DBS disclosure had been submitted to the Council and the applicant can demonstrate they have again signed up to the on-line facility.

(For the renewal of a 3 year licence it is thought at this time that the on-line facility may be continuous and not require a full paper disclosure but this has to be verified).

- Similarly, a requirement to complete an annual DVLA mandate to monitor eligibility to hold a PHD or HCD licence and ensure compliance with the Council's policy in respect of motoring convictions or remedial training.

3.14 Revocation or suspension of licence – how it effects continuous 'good service'

- Sometimes licences are suspended as a precautionary public safety measure following an allegation. Where there was to be no further action by the Council following the investigation this would not normally be considered as break in the continuity of the licence unless the licence holder had 'absented himself' in a way which realistically prevented the Council taking any sustainable action against him.
- Members are reminded that Officers exercise far more discretion in making exemptions to policies than they do in adhering to the letter of them and appropriate discretion would be applied to this policy. As a note of caution through, administering in excess of 20,000 licensing transactions per year does not leave capacity for constantly having to chase drivers to keep in line with the policy.
- Where a licence has been revoked or suspended as a sanction, this would be a break in 'good service'.

3.15 Financial implications

- Currently a DBS disclosure costs £60 but Members will recall that is due to rise to offset the increase in establishment to deal with 3 yearly DBS checks on all drivers. There are financial gains for drivers having once entered the scheme and maintaining the annual on-line check.
- To encourage take up Members proposed that an incentive could be that at the point of application the full current one year fee is paid in full and prior to the commencement of the second year of the licence the remaining two years fee is paid in full.

Members are advised that Internal Audit will need to be assured that the audit and accounting processes will need to ensure that no risk is posed to the Council. This point can be further reported on following wider consultation.

- Road Traffic convictions are a significant public safety consideration and in the absence of opportunity to check DVLA licences annually the driver must sign up to an annual DVLA mandate at a cost of £7.50 which is inclusive of a set fee charged by DVLA and an average cost using their premium line telephone number.
- The impact upon the Licensing Office is dealt with further at 4.4 and the cost benefits to the trade which could possibly lead to reduced licence fees can only be measured over time and it is intended they will be reviewed in 2 – 3 years time as part of a full review of all fees.

3.16 Lead in time for commencement

There are a number of factors which will determine this, for example:-

- Further consultation and subsequent report back to Licensing Committee.
- Developing the I.T. program to sustain the policy.

It is not envisaged there would be significant obstacles to progressing this sooner rather than later.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 The Working Group has met on the following occasions for the purpose indicated:-

25/6/13 Initial planning meeting.

31/7/13	Meeting with Hackney Carriage trade.
15/10/13	Meeting with Elected Members.
15/11/13	Meeting with Private Hire trade.
12/2/14	Working Group considerations of the consultation, legal advice and Officer comment.
17/2/14	Formulation of final considerations.

Following consideration of this report a further short period of consultation should be undertaken and it is recommended that this be set at 1 month.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An Equality Screening Assessment has been completed and is available as a background document. There are no contra indicators to this being acceptable practice.

4.3 Council policies and City Priorities

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

Best Council Plan 2013 -17

Towards being an Enterprising Council

Our Ambition and Approach

Our Ambition is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

Our Approach is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

Our Best Council Outcomes

Make it easier for people to do business with us.

Our Best Council Objectives

Promoting sustainable and inclusive economic growth – improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs,

- Boosting the local economy
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time
- Improving customer satisfaction

4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

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

4.3.3 Safeguarding children and vulnerable adults:

Leeds City Council has both a moral and legal obligation to ensure the duty of care for both children and vulnerable adults across all of its services. This cannot be achieved by any single service or agency. Safeguarding is ultimately the responsibility of all of us and depends on the everyday vigilance of staff who play a part in the lives of children or vulnerable adults.

4.4 Resources and value for money

4.4.1 At this time it is not possible to make a reasoned estimate of cost savings or additional expenditure associated to carrying out this policy. It is not however considered to pose any great risk but will of course be subject to continuous evaluation.

4.5 Legal Implications, Access to Information and Call In

4.5.1 As a new policy there does need to be a further period of consultation prior to the Licensing Committee making any recommendation for the adoption of the policy under the Executive decision making functions.

4.5.2 Members are reminded that their prime statutory responsibility is public safety and they should be satisfied that the policy proposals satisfactorily offer a high but proportionate level of monitoring.

4.5.3 It would be noted that there is reference to DfT best practice guidance in the background documents at 7 in this report and in essence this informs Members that it can be regarded as good practice to issue 3 year licences but the guidance is not prescriptive in terms of putting service delivery issues before public safety.

4.6 Risk Management

4.6.1 It is essential that the two key elements of risk to the Council – financial management and public safety responsibilities are

adequately taken account of in the information enabling Members to reach a considered view.

- 4.6.2 Public safety should not be seen as the general public alone. Members must be mindful of the Council's transport contract scheme for Social Services and Education involving vulnerable children and adults where there must be strong adherence to this policy and a clear understanding that there is no 'trade-off' between public safety and trade convenience.
- 4.6.3 As this is a policy the appeal process is by way of Judicial Review against the policy. Members may feel that whilst there will be variations in policies throughout the country, the profile of the licensed trade in Leeds and the issues in the night time economy enable the policy proposals and their background to be regarded as proportionate to maintaining public safety and a safe and professional service.

5 Conclusions

- 5.1 Officers feel that the proposals set out in this report are manageable, financially viable and administratively sustainable providing participating drivers undertake their responsibilities conscientiously.

6 Recommendations

- 6.1 That Members consider the principle of '3 year licences' and the proposed policy recommended by the Working Group and make any appropriate comments before considering release of the proposals for further consultation of 1 month.
- 6.2 That Members note and approve the recommendation of the Working Group in respect of third party driver renewals that it is a key public safety measure that all personal licence renewals are undertaken in person and not by a third party.

7 Background documents¹

DfT Best Practice guidance

Equality Screening Assessment

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Appendix 1

LEEDS LICENSED DRIVERS - BREAKDOWN BY RESIDENCE

District	Hackney Carriage	Private Hire
Incorrect post codes	85	593
Allerdale District (B)		1
Barnet London Boro		1
Birmingham District (B)		2
Blackburn with Darwen (B)		1
Bradford District (B)	164	1280
Brent London Boro		1
Calderdale District (B)	1	46
Cambridge District (B)		1
City of Derby (B)	1	2
City of Leicester (B)		1
City of Peterborough (B)		1
City of Stoke-on-Trent (B)		1
Craven District		1
Doncaster District (B)		6
Dudley District (B)		1
East Riding of Yorkshire		2
East Staffordshire District (B)		1
Greenwich London Boro		1
Harrogate District (B)	1	5
Kirklees District (B)	56	461
Leeds District (B)	714	2595
Manchester District (B)		3
Merton London Boro	1	
Middlesbrough (B)	1	2
North Lincolnshire (B)	2	1
Pendle District (B)		4
Rochdale District (B)		1
Rossendale District (B)		2
Rotherham District (B)	1	2
Selby District	2	7
Sheffield District (B)		9
Slough (B)		1
Stafford District (B)		1
Wakefield District (B)	8	36
York (B)	1	1
Total West Yorkshire (excluding Leeds)	230	1783

SUSPENSIONS IN 2012

PROFILE BY LENGTH OF SERVICE

Private Hire Driver Suspensions	
No of years in force	No of licences
0 - 1	8
1 - 2	3
2 - 3	8
3 - 4	7
4 - 5	7
5 - 6	5
6 - 7	6
7 - 8	5
8 - 9	4
9 - 10	1
10 - 11	2
11 - 12	0
12 - 13	0
13 - 14	3
14 - 15	4
15 - 16	3
16 - 17	3
17 - 18	1
18 - 19	0
19 - 20	1
20 - 21	1
21 - 22	0
22 - 23	1
23 - 24	0
24 - 25	0
25 - 26	0
26 - 27	1
27 - 28	2

Hackney Carriage Suspensions	
No of years in force	No of licences
0 - 1	0
1 - 2	0
2 - 3	0
3 - 4	0
4 - 5	0
5 - 6	1
6 - 7	0
7 - 8	0
8 - 9	2
9 - 10	0
10 - 11	0
11 - 12	2
12 - 13	1
13 - 14	0
14 - 15	1
15 - 16	0
16 - 17	3
17 - 18	0
18 - 19	0
19 - 20	1
20 - 21	0
21 - 22	0
22 - 23	0
23 - 24	1
24 - 25	0
25 - 26	0
26 - 27	0
27 - 28	0

Appendix 1

PROSECUTIONS IN 2012

PROFILE BY LENGTH OF SERVICE

Private Hire and Hackney Carriage Prosecutions	
No of years in force	No of licences
0 - 1	0
1 -2	0
2 -3	0
3 - 4	0
4 - 5	2
5 - 6	3
6 - 7	5
7 - 8	1
8 - 9	0
9 - 10	0
10 - 11	0
11 - 12	0
12 - 13	0
13 - 14	1
14 - 15	0
15 - 16	1
16 - 17	1
17 - 18	0
18 - 19	0
19 - 20	0
20 - 21	0
21 - 22	0
22 - 23	0
23 - 24	0
24 - 25	0
25 - 26	0
26 - 27	0
27 - 28	0

Appendix 1

Number of Private Hire Driver Licences revoked by year and the number of years they were in force

Number of years in force	Licence revocation year						Total number of licences revoked
	2008	2009	2010	2011	2012	2013	
0 - 1	3	2	1	1			7
1 - 2	4	7	7	1	4		23
2 - 3	7	7	7	3	1		25
3 - 4	2	5	5	3	2		17
4 - 5	2	7	9	4	4		26
5 - 6	4	4	7	2	3	1	20
6 - 7		3	1	5	3		12
7 - 8	2	2	2	2	4		12
8 - 9	2		1	1	2	2	6
9 - 10	3	2		1	1	2	7
10 - 11	4	2		2			8
11 - 12		2	4		1		7
12 - 13		2					2
13 - 14	1	1		3	1		6
14 - 15		1	2	1	1		5
15 - 16	1			1	1		3
16 - 17		1		1	1		3
17 - 18				2		1	2
23 - 24		1					1
24 - 25			1				1
25 - 26					1		1
26 - 27	1						1

Number of Hackney Carriage Licences revoked by year and the number of years they were in force

Number of years licensed	Licence revocation year						Total number of licences revoked
	2007	2008	2009	2010	2011	2012	
1	1				1		2
2		2					2
3	1			1			2
4			1				1
5			3	1			4
6		1		1			2
8			1	1			2
9		1	1				2
10			1		1	1	3
12						1	1
13			1				1
14	1						1
18				1			1
20	1						1
22					1		1
25				1			1
28				1			1

