

**TITLE OF REPORT: Changes to Hackney Carriage and Private Hire Licensing policy under the Deregulation Act 2015**

**REPORT OF: Paul Dowling, Strategic Director, Communities and Environment**

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### **Purpose of the Report**

1. This report is to inform Cabinet of the changes required to licensed hackney carriage and private hire driver and private hire operator policy and fees as a result of the introduction of the Deregulation Act 2015.

### **Background**

2. On 1 October 2015 changes to the legislation regulating the provision of hackney carriage and private hire services under The Deregulation Act 2015 will come into force.
3. The changes are that -
  - (a) Driver licences will now normally last for three years and private hire operator licences will normally last for five years (rather than a standard one year duration as present), unless there is good reason otherwise; and
  - (b) Private hire operators will now be able to subcontract bookings to operators based outside the Borough, and Gateshead based operators will be able to accept bookings from operators based outside the Borough under subcontracts.
4. In order to give effect to these changes, amendments are required to the Council's current policies and conditions, and to the Council's fees and charges.

### **Proposal**

#### Private Hire Operator Licence fees

5. The current fee is £157.00 which includes all administration and enforcement associated with the licence for a period of one year, and is charged on application.
6. The Deregulation Act 2015 requires that Private Hire Operator Licences are now normally issued for a period of 5 years unless the individual circumstances justify a shorter period, which is set out in further detail below.
7. Recent case law requires that Council's structure their fees for licences as separate charges (a) for the initial application payable by all applicants and (b) for ongoing costs, for example enforcement and compliance checking, for those who are licensed.

8. It is therefore proposed to amend the fees and charges schedule as follows:

- An application fee - covering the administration associated with the application process; and the cost of administration and enforcement during the first 12 month period of the licence (with a portion to be refunded to unsuccessful applicants)
- An annual fee - which covers the cost of administration and enforcement during the four subsequent 12 month periods of the licence published each March and determined by the cost of administering and enforcing Gateshead Private Hire Operator licences from 1 October to 30 September each year
- To reflect the fact that operators with larger fleets require greater compliance checks, it is intended that from April 2016 a two tier fee band is proposed for large and small operators
- In order that the actual amount licensees will pay for licences issued in the 2015/16 financial year remains as set out in the Council's Fees and charges, the combined application fee and first year licence fee will be £157.00, being £27.00 Application fee and £130.00 licence fee from 1 October 2015. It is envisaged that in the future the review of these fees will be in line with the annual review of the Council's Fees and Charges schedule. The annual fees from April 2016 will be calculated based on a detailed analysis of costs which will be carried out over the next six months to take into account the impact of the changes to policy and procedure as below.

#### Hackney Carriage and Private Hire Driver licence fees

9. The current fee is £51.90 which includes the cost of issue and administration associated with the licence for a period of one year, and is charged on application.
10. The Deregulation Act 2015 requires that Hackney Carriage and Private Hire Driver Licences are now issued for a period of 3 years unless the individual circumstances justify a shorter period, which is set out in further detail below.
11. A number of measures have recently been introduced to make Hackney Carriages and Private Hire Vehicles safer for passengers and drivers, such as the introduction of compulsory Child Sexual Exploitation awareness training. The Council is also trialling changes to existing procedures, many of which are expected to result in efficiencies.
12. From 1 October 2015 fees will be split so that -
  - (a) all applicants pay a fee of £51.90 for the processing of their application, and
  - (b) successful applicants pay an annual fee of £35.00.
13. There are a number of reasons why it may be appropriate for a Driver licence to be issued for a period less than three years which are set out below, and to accommodate this the proposed fee structure gives applicants the

following payment options for Hackney Carriage Drivers and Private Hire Drivers –

- One year licence - £51.90
- Two year licence - £86.90 (of which £35.00 would be refundable if the application is unsuccessful)
- Three year licence - £121.90 (of which £70.00 would be refundable if the application is unsuccessful)

For Dual Badge Drivers:

- One year licence - £84.00
- Two year licence - £119.00 (of which £35.00 would be refundable if the application is unsuccessful)
- Three year licence - £154.00 (of which £70.00 would be refundable if the application is unsuccessful)

14. Applicants will be required to pay the full amount on application in order to reduce the administrative costs of processing relatively small annual fees, which if processed year on year would increase the overall costs to licensees.
15. It is envisaged that in the future the review of these fees will be in line with the annual review of the Council's Fees and Charges schedule. The annual fees from April 2016 will be calculated based on a detailed analysis of costs which will be carried out over the next six months to take into account the impact of the proposed changes to policy and procedure.

### **Policy and conditions**

16. Some consequential amendments are required in respect of driver and operator licence policy and conditions.

### Operator licences

17. As operator licences will normally last for five years, a condition will be added to all new operator licences (including all existing operator licences on renewal) as follows –

“Upon the granting of the Licence and for the duration of the Licence upon (or before) each anniversary of the grant, the Operator must pay the annual fee failing which the Licence shall be suspended until such time as the annual fee is duly paid.”

18. It is anticipated that further changes to conditions and policies will be necessary to accommodate subcontracting. Cabinet's approval will be sought in due course to undertake a consultation in this respect.

## Driver licences

19. Drivers are required to provide evidence of their medical fitness and criminal history from time to time, in line with relevant national guidance.
20. The requirement to provide medical certificates to a 'Group 2' standard at staggered intervals depending on age will remain unchanged.
21. Drivers are currently required to undergo a criminal record check on application and then every three years. This will inevitably mean that if a current licensee chooses to apply for a three year licence, the date that they are due to provide a criminal record certificate may not align with their licence renewal date in the future. This will however be mitigated by encouraging licensees to obtain a two or three year licence and subscribe to the Disclosure & Barring Service's new update service which ensures that the Council is able to check if there have been any changes to a person's criminal record on an interim basis. This will improve the Council's ability to ensure public protection and creates an efficiency for both licensees and the Council.
22. As above, Driver licences will normally be issued for a period of three years, but there are a number of reasons why a licence may be issued for a shorter period –
  - Applicants may for their own reasons choose to request that a licence is issued for a one or two year period, for instance if they are approaching retirement so do not intend to work for a further three years
  - Applicants who do not subscribe to the DBS update service may not be issued with a licence for longer than 12 months in order to ensure that they provide a current DBS certificate should they seek to renew their licence upon expiry. Over the next six months further data will be gathered around what duration of licence is appropriate. The Council is mindful of the financial implications of changes to DBS requirements although it should be noted that signing up for the update service provides medium term financial benefits. However the purpose of any changes is fundamentally to ensure that all licensees' criminal records can be checked with appropriate and consistent frequency; and
  - Dependent on individual circumstances.

## **Recommendations**

23. Cabinet is asked to recommend the Council to approve the proposed changes to hackney carriage and private hire policy and fees so that they can take effect on 1 October 2015 as required by the Deregulation Act 2015.

For the following reason:

So that the statutory changes brought about by the Deregulation Act 2015  
can be implemented

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### Policy Context

1. The administration and enforcement of licensed drivers and operators contributes to Gateshead's Sustainable Community Strategy - Vision 2030 which sets out an ambitious and aspirational vision for Gateshead. Vision 2030 aims to improve the wellbeing and equality of opportunity for everyone in Gateshead so that all residents and businesses can fulfil their potential.

### Background

2. On 1 October 2015 changes to the legislation regulating the provision of hackney carriage and private hire services under The Deregulation Act 2015 will come into force. The changes are drawn from a more holistic review of the existing legislation proposed by the Law Commission, and were included in the Deregulation Act as they were considered by Parliament to be minor amendments that would increase customer choice, create greater efficiencies for the trade and reduce unnecessary red tape.
3. The relevant changes in the Act with respect to taxi and private hire licensing are that -
  - (a) Driver licences will now normally last for three years and private hire operator licences will normally last for five years (rather than a standard one year duration as present), unless there is good reason otherwise; and
  - (b) Private hire operators will now be able to subcontract bookings to operators based outside the Borough, and Gateshead based operators will be able to accept bookings from operators based outside the Borough under subcontracts.
4. The change in the duration of licences requires a review of the way fees are set. Another change to fees that needs to be made arises from recent case law which requires that Council's structure their fees for licences as separate charges (a) for the initial application payable by all applicants and (b) for ongoing costs, for example enforcement and compliance checking, for those who are licensed.

### Consultation

5. Cabinet Members for Environment and Transport and the Chair and Vice Chair of the Regulatory Committee have been consulted in the preparation of this report.

### Alternative Options

6. There are no alternative options to making these changes as they are required to comply with legislation and relevant case law.

## Implications of Recommended Option

### 7. Resources

- a. **Financial Implications** – The Strategic Director, Corporate Resources, confirms that there are no additional financial implications arising from this report for this financial year and that future fees will be set as part of the annual review of the Council's Fees and Charges.
- b. **Human Resources Implications** - There are no human resource implications arising directly from this report.
- c. **Property Implications** - There are no property implications arising directly from this report

8. **Risk Management Implications** – There are no risk management implications arising directly from this report

9. **Equality and Diversity Implications** – An Equality Impact and Needs Assessment of these plans has indicated a neutral impact

10. **Crime and Disorder Implications** – There are no crime and disorder implications arising directly from this report.

11. **Health Implications** - There are no health implications arising directly from this report.

12. **Area and Ward Implications** - This report affects all wards equally.

### 13. Background Material

These documents that have been considered in preparation of the report:

- Deregulation Act 2015
- The Town Police Clauses Act 1847
- The Local Government (Miscellaneous Provisions) Act 1976
- Judgement - R (on the application of Hemming (t/a Simply Pleasure Ltd) and others) (Respondents) v Westminster City Council (Appellant)
- Cummings et al v Cardiff City Council
- Disclosure and Barring Service – DBS Update Service Employer Guide August 2015