
**THE IMPACT OF THE DEREGULATION ACT 2015 ON THE LICENSING OF
HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS AND PRIVATE HIRE
OPERATORS**

ITEM FOR DECISION

PURPOSE OF THE REPORT

1. The purpose of this report is to inform Members of the new requirements for Local Authorities under the Deregulation Act 2015 in respect of the licensing of taxis and private hire drivers and private hire operators and to invite Members' to support the recommendations within this report.

BACKGROUND

2. The Deregulation Act 2015 ("The 2015 Act") which received Royal Assent on 26 March 2015 was designed to remove or reduce the burdens on businesses, individuals, public sector bodies and the taxpayer. At the same time the 2015 Act places a duty on regulators to have regard to promoting economic growth. Its basis was in the commitment of the previous government to reduce or improve regulation and to cut "red tape".
3. While the 2015 Act covers a wide range of subject areas this report concentrates on specific issues pertaining to the licensing of hackney carriage and private hire drivers and also private hire operators. The provisions will come into force on 1 October 2015.

INFORMATION

4. The Local Government (Miscellaneous Provisions) Act 1976 sections 53(1)(a) and 53(1)(b) and section 55 (2) currently states that :

53(1)(a) *"Every licence granted by a district council under the provisions of this Part of this Act to any person to drive a private hire vehicle shall remain in force for three years from the date of such licence or for such lesser period as a district council may specify in such licence."*

53(1)(b) *"Notwithstanding the provisions of the Public Health Act 1875 and the Town Police Clauses Act 1889, every licence granted by a district council under the provisions of the Act of 1847 to any person to drive a hackney carriage shall remain in force for 3 years from the date of such licence or for such lesser period as they may specify in such licence."*

55(2) Pertaining to Private Hire Operators states that:
“Every licence granted under this section shall remain in force for such a period, not being longer than five years, as a district council may specify in the licence”.

5. **Section 10** of the 2015 Act amends the two section 53 provisions above by removing the wording *“such lesser period as a district council/they may specify in such licence”* and replacing it with:

“for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case”.

6. **Section 10** of the 2015 Act amends section 55(2) by replacing the text as follows:

Every licence granted under this section shall remain in force for five years or for such lesser period, specified in the licence, as the district council think appropriate in the circumstances of the case”.

7. **Section 11** of the 2015 Act introduces new subsections in respect of private hire operators as follows:

55A – Sub-contracting by operators

- (1) *“A person licensed under section 55 who has in a controlled district accepted a booking for a private hire vehicle may arrange for another person to provide a vehicle to carry out the booking if:*
- (a) *The other person is licensed under section 55 in respect of the same controlled district and the sub-contracted booking is accepted in that district;*
 - (b) *The other person is licensed under section 55 in respect of another controlled district and the sub-contracted booking is accepted in that district;*
 - (c) *The other person is a London PHV operator and the sub-contracted booking is accepted at an operating centre in London; or*
 - (d) *The other person accepts the sub-contracted booking in Scotland.*
- (2) *It is immaterial for the purposes of subsection (1) whether or not sub-contracting is permitted by the contract between the person licensed under section 55 who accepted the booking and the person who made the booking.*
- (3) *Where a person licensed under section 55 in respect of a controlled district is also licensed under that section in respect of another controlled district, subsection (1) (so far relating to paragraph (b) of that subsection) and section 55B(1) and (2) apply as if each licence were held by a separate person.*
- (4) *Where a person licensed under section 55 in respect of a controlled district is also a London PHV operator, subsection (1) (so far as relating to paragraph (c) of that*

subsection and section 55B(1) and (2) apply as if the person holding the licence under section 55 and the London PHV operator were separate persons.

- (5) *Where a person licensed under section 55 in respect of a controlled district also makes provision in the course of a business for the invitation or acceptance of bookings for a private hire car or taxi in Scotland, subsection (1) (so far as relating to paragraph (d) of that subsection) and section 55(1) and (2) apply as if the person holding the licence under section 55 and the person making the provision in Scotland were separate persons. In this subsection, “private hire car” and “taxi” have the same meaning as in sections 10 to 22 of the Civic Government (Scotland) Act 1982.*
- (6) *In this section “London PHV operator” and “operating centre” have the same meaning as in the Private Hire Vehicles (London) Act 1998*

55B – Sub-contracting by operators: criminal liability

- (1) *In this section*

“the first operator” means a person licensed under section 55 who has in a controlled district accepted a booking for a private hire vehicle and then made arrangements for another person to provide a vehicle to carry out the booking in accordance with section 55A(1);

“the second operator” means the person with whom the first operator made the arrangements (and, accordingly, the person who accepted the sub-contracted booking).

- (2) *The first operator is not to be treated for the purposes of section 46(1)(e) as operating a private hire vehicle by virtue of having invited or accepted the booking.*
- (3) *The first operator is guilty of an offence if:*
- (a) The second operator is a person mentioned in section 55A(1)(a) or (b),*
 - (b) The second operator contravenes section 46(1)(e) in respect of the sub-contracted booking, and*
 - (c) The first operator knew that the second operator would contravene section 46(1)(e) in respect of the booking.”*

8. These changes reflect some of the proposals originally raised by the Taxi Law Commission. One other proposal – to permit unlicensed drivers to drive licensed vehicles when not being used in the course of the business for which they are licensed – was removed following safety concerns expressed nationally.

THE CURRENT POSITION

Driver and operator licence duration

9. At present Darlington Borough Council, along with most other Licensing Authorities, limits driver and operator licences to one year with an annual renewal, at which time a

full declaration is made about any changes in respect of convictions (criminal and motoring), cautions, reprimands etc and also any change in medical conditions in respect of drivers. Some local authorities do offer 3 or 5 year licence but generally these are subject to annual checks and to a larger licence fee prior to the commencement of a licence

Sub-contracting of private hire bookings

10. The Council's current policy requires that only private hire vehicles and hackney carriages licensed by DBC must be dispatched to undertake bookings.

PROPOSED CHANGES

Driver licences

11. It is proposed that all new applicants and applicants for renewal of licence be offered the opportunity to make an application for a 3 year licence in those cases where there are not any issues concerning the application.
12. It is proposed that all 3 year licence holders will be required to attend the Licensing Section annually to make a declaration that they have not accrued any penalty points or criminal convictions, cautions, reprimands or final warnings within the preceding 12 months and that their medical status has not changed in any way. Licence holders will be required to sign a declaration that they will be liable for prosecution if they make a false declaration or omit to provide any requisite information.
13. It is proposed that all 3 year licence holders have valid DVLA licences, medicals and criminal record checks for the entire 3 year period. Applicants may choose to bring forward such checks to align them to a 3 year licence, however if any of these expire within the 3 year period a pro rata licence (with pro rata fee) will be considered. In addition it is proposed that applicants for 3 year licences are required to register for the Disclosure and Barring Service (DBS) updating system and the similar DVLA access system and provide authorised access to the Council to enable ongoing checks to be made.
14. In cases where applicants/renewal applicants are referred to the Council's Taxi Licensing Sub Committee in respect of matters of concern e.g. criminal or medical issues or serious complaints, it is proposed that a maximum one year licence will normally be granted and repeated for the first 3 years. If there are not any further concerns after that time period the opportunity to apply for a 3 year licence shall be offered.
15. It is proposed that in cases where licence holders are subject to specific annual checks e.g. an annual medical, that they are limited to an annual licence application.
16. Work is currently ongoing on an updated costing of all taxi licensing functions and it is clear that there will be a higher cost for a 3 year licence than a one year licence. It is

also anticipated that many drivers will wish to make application for an annual licence and this provision will still be available to all applicants.

Private Hire Operators

17. It is proposed that all new applicants and applicants for renewal of licence be offered the opportunity to make an application for a 5 year licence in those cases where there are not any issues concerning the application.
18. It is proposed that the current policy requirement to submit a criminal record every 3 years for those operators who are not also drivers, be extended to every 5 years to facilitate the longer licensing period.
19. It is proposed that all 5 year licence holders will be required to attend the Licensing Section annually to make a declaration that they have not accrued any criminal convictions, cautions, reprimands or final warnings within the preceding 12 months and that there has not been any change in the operation of the business also. Licence holders will be required to sign a declaration that they will be liable for prosecution if they make a false declaration or omit to provide any requisite information.
20. Work is currently ongoing on an updated costing of all taxi licensing functions and it is clear that there will be a higher cost for a 5 year licence than a one year licence. It is also anticipated that some operators will wish to make application for an annual licence and this provision will still be available to all applicants.

Sub-contracting of private hire bookings

21. It is proposed that the private hire operator conditions are amended in respect of booking records to require that a record is required of every sub contract made with the operator or arranged by the operator. This will assist officers dealing with complaints about specific drivers and/or vehicles.
22. In respect of the vehicles to be used by an operator it is proposed that the private hire operator conditions are amended to require that the operator must ensure that the same standard of vehicle and driver that would normally be dispatched by the operator is provided by the sub-contractor.

TIMESCALES

23. The changes introduced by the 2015 Act commence on 01 October 2015. The Council's policy in respect of taxi and private hire drivers, vehicles and policies is due to be considered by full Council in November 2015 with a view to introducing a revised policy from January 2016. In addition, work is ongoing to revise all taxi licensing fees and this is expected to be concluded by the end of 2015. The Licensing Section is therefore not in a position to introduce such wholesale change from 01 October 2015. It is therefore proposed that anyone wishing to obtain a 3 or 5 year licence with effect from 01 October be advised that a one year licence will be issued (subject to the current one year fee) pending the approved revision of the policy document and that the following year a pro

rata licence and licence fee will be available (subject to the provisions detailed above) to ensure the applicant does not suffer any financial detriment.

RECOMMENDATIONS

24. Members are invited to:

- (i) Note the changes to the 1976 Act brought in by the Deregulation Support the proposals detailed in paragraphs 11 to 22 above
- (ii) Support the interim arrangements detailed at paragraph 23 above.

BACKGROUND PAPERS

The DfT Guidance for the Taxi and Private Hire Trade

The Taxi Law Commission final report May 2014

The Local Government (Miscellaneous Provisions) Act 1976

The Deregulation Act 2015

Darlington Council's Policy in respect of taxis and private hire vehicles, drivers and Operators.

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