

WIRRAL COUNCIL

LICENSING HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

28 SEPTEMBER 2015

SUBJECT:	PRIVATE HIRE OPERATOR LICENCES
WARD AFFECTED:	ALL WARDS
REPORT OF:	STRATEGIC DIRECTOR OF REGENERATION & ENVIRONMENT
RESPONSIBLE PORTFOLIO HOLDER:	COUNCILLOR WJ DAVIES
KEY DECISION?	NO

1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to advise Members of the discretion provided following changes in the legislation in respect of licensing Private Hire Operators and to seek the approval of Members to introduce a requirement for applicants for the grant and renewal of Private Hire Operator Licences to undergo a criminal record check and obtain a Basic Disclosure from Disclosure Scotland before a licence may be granted or renewed.

2.0 BACKGROUND AND KEY ISSUES

- 2.1 The licensing provisions for Private Hire Operators are set out in Section 55 of The Local Government (Miscellaneous Provisions) Act 1976. The wording of this section currently provides that these licences 'shall remain in force for such period, not being longer than five years, as a district council may specify in such licence.'
- 2.2 The Council currently grant Private Hire Operator Licences for a period of 12 months.
- 2.3 Members will be aware that The Deregulation Act 2015 amends the wording of Section 55 of The Local Government (Miscellaneous Provisions) Act 1976 in respect of the licensing of Private Hire Operators to state that the licences '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.' This amendment comes into effect on 1 October 2015.
- 2.4 An explanation given by the Department for Transport in respect of the amendments, when the proposals were first introduced in the Deregulation Bill was as follows:
- 'Making the standard duration for all taxi and PHV driver licences three years; and five years for all PHV operator licences. Shorter durations will only be granted on a case by case basis where it is justifiable for a particular reason. This will reduce the financial and administrative burden of having to make frequent licence renewals.'

- 2.5 It was reported to Members at the last meeting of this Committee on 7 July 2015, that as a consequence of the amendments brought about by The Deregulation Act 2015, the Council is required to grant Private Hire Operator Licences for a period of five years. At that meeting Members approved an amendment to the fee structure to reflect these changes.
- 2.6 It can be seen that the amended wording referred to in paragraph 2.3 still provides the Council with a discretion as to how long a licence should last in the circumstances of an individual case.
- 2.7 Members are asked to consider whether they are content to delegate to officers the discretion to assess the merits of each individual case, except in circumstances when an applicant or licensed Operator is referred to the Licensing Panel, when the discretion of Members of the Licensing Panel will be engaged. It is further proposed that should it be considered appropriate in the circumstances of the case to grant a licence for 12 months that the current fee structure for annual licences be applied.
- 2.8 In accordance with Section 55 of The Local Government (Miscellaneous Provisions) Act 1976 a local authority 'shall not grant a licence unless they are satisfied that the applicant is a fit and proper person to hold an operator's licence.'
- 2.9 The Council currently seeks to establish whether an applicant for the grant or renewal of a Private Hire Operator Licence is a fit and proper person by asking them to make a statutory declaration and list any criminal convictions.
- 2.10 There are currently seventy holders of Private Hire Operator Licences who also hold a Private Hire Driver Licence and are therefore subject to an Enhanced Disclosure and Barring check every three years. Seven holders of Private Hire Operator Licences do not hold a Private Hire Driver Licence.
- 2.11 It is considered appropriate at this time, as the duration of licences granted by the Council is to change from 12 months to five years, that applicants who do not hold a Private Hire Driver Licence should be required to undergo a criminal record check and obtain a Basic Disclosure from Disclosure Scotland before a licence may be granted or renewed.
- 2.12 Unlike Hackney Carriage and Private Hire Drivers, the Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 which does not allow convictions to be considered spent when applying for certain occupations, does not cover Private Hire Operators, who are therefore subject to the workings of the Rehabilitations of Offenders Act 1974. This means that convictions become spent in relation to a Private Hire Operator. The fact that the role of the Private Hire Operator is not an exempt occupation for the 1974 Act means that it is not possible to obtain an Enhanced Disclosure and Barring Service check but an applicant can be asked to obtain a Basic Disclosure from Disclosure Scotland.
- 2.13 The proposal to introduce a criminal record check in respect of Private Hire Operators has been discussed at a meeting with representatives of licensed Private Hire Operators and there were no objections to this proposal.

3.0 RELEVANT RISKS

3.1 There are none arising directly from this report.

4.0 OTHER OPTIONS CONSIDERED

4.1 There is no provision for other options to be considered.

5.0 CONSULTATION

5.1 This is not a matter which requires consultation.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

6.1 There are no specific implications arising from this report.

7.0 OUTSTANDING PREVIOUSLY APPROVED ACTIONS

7.1 There are none.

8.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

8.1 There are no specific implications arising from this report.

9.0 LEGAL IMPLICATIONS

9.1 A decision of the Committee may be subject to legal challenge.

10.0 EQUALITIES IMPLICATIONS

10.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

No because the report advises Members of legislative changes.

11.0 CARBON REDUCTION AND ENVIRONMENTAL IMPLICATIONS

11.1 There are no specific carbon reduction implications arising from this report.

12.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

12.1 There are Community Safety implications as Private Hire Operators must be fit and proper persons when granted a licence and throughout its duration due to their involvement with the general public..

13.0 RECOMMENDATION/S

13.1 Members note that from 1 October 2015 Private Hire Operator Licences will be granted for a period of five years. That Members delegate to officers the discretion to assess the merits of each individual case and determine whether it is appropriate in the circumstances of the case to grant a Private Hire Operator Licence for a lesser period, except in circumstances when an applicant or licensed Operator is referred to the Licensing Panel when the discretion of the Members of the Licensing Panel will be engaged.

13.2 That Members approve the following Policy:

An applicant for the grant or renewal of a Private Hire Operator Licence must undergo a criminal record check and obtain a Basic Disclosure from Disclosure Scotland before a licence may be granted or renewed, except in circumstances where the applicant holds or is in the process of applying for a Private Hire Driver Licence.

14.0 REASON FOR RECOMMENDATION/S

14.1 To allow officers to grant licences to new and existing applicants for a lesser period than five years in the appropriate circumstances of the case without the requirement for each applicant to be referred to the Licensing Panel on every occasion.

14.2 The Council must be satisfied that the applicant for a Private Hire Operator Licence is a fit and proper person to hold such a licence.

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APPENDICES

BACKGROUND PAPERS/REFERENCE MATERIAL

BRIEFING NOTES HISTORY

Briefing Note	Date

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Licensing Health and Safety and General Purposes Committee	7 July 2015