

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO LICENSING COMMITTEE

29 SEPTEMBER 2015

REPORT OF THE ASSISTANT CHIEF EXECUTIVE LEGAL AND REGULATORY SERVICES

DEREGULATION ACT 2015

HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCES

1. Purpose of Report.

1. The purpose of this Report is to recommend new licence fees for dual hackney carriage and private hire vehicle drivers to reflect a change to the duration of a licence being brought into effect by the Deregulation Act 2015.

2. Connection to Corporate Improvement Objectives/Other Corporate Priorities

- 2.1 The duties of the Council as a licensing authority are statutory in nature but many of the licensing objectives support the principal aims of the Corporate Improvement Plan and the Council's corporate priorities.

3. Background.

- 3.1 The Deregulation Act 2015 amends the section of the Local Government (Miscellaneous Provisions) Act 1976 that sets out the duration of licences for hackney carriage and private hire driver licences.
- 3.2 The present practice in Bridgend County Borough is to grant these licences for a maximum period of one year.
- 3.3 The amendments made by the Deregulation Act establish a standard duration for a driver licence of 3 years. A licence may be granted for a shorter period where there is a justifiable reason. This reason would be related to the circumstances of an individual case and cannot be applied as a blanket policy. The commencement date for these measures is 1st October 2015.
- 3.4 Section 53 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Council to charge fees in respect of hackney carriage and private hire drivers' licences. The Council must set the fees for these licences on the basis that it only recovers costs which it is entitled statutorily to recover.
- 3.5 In respect of drivers' licences the Act states that the Council may charge 'such a fee as it considers reasonable with a view to recovering the costs of issue and administration associated with the grant of Hackney Carriage and Private

Hire drivers' licences'. Consequently, enforcement costs in relation to drivers' licences cannot be recovered through the licence fee.

- 3.6 Case law has established that when the Council makes a surplus in respect of licence fees it should give account for that the next time that the fees are set; and if it incurs a deficit it may also take that into account. The calculations in respect of each type of licence issued by the Council should be kept separate.

4. Current situation / proposals

- 4.1 All new taxi drivers are required to produce an enhanced DBS certificate prior to grant of their licence, and once licensed, this Council's policy is that drivers are required to produce an enhanced DBS certificate on a triennial basis.
- 4.2 The licensing authority requires an enhanced DBS to check for any criminal convictions/cautions in order to determine whether an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage/private hire driver's licence. The current fee of £44 is payable to the Disclosure and Barring Service (DBS) in addition to the licence fee.
- 4.3 From 1st October 2015 drivers may be issued with a 3 year licence, and this will result in the majority of drivers being required to produce a new DBS certificate at some point between licence renewals. This is considered to be costly and bureaucratic for both the driver and licensing authority.
- 4.4 Regard also needs to be given to mitigating the impact of all drivers submitting renewal applications on a three year cycle in October which will result in peaks in resource demand and difficulties in financial budgeting.
- 4.5 In order to synchronise the DBS checks with licence renewals and reduce costs for both drivers and the licensing authority, it is proposed that drivers are offered a 3 year licence but must provide an enhanced DBS Certificate regardless of whether it is due. If drivers do not wish to pay for an additional DBS Certificate (currently £44) they may have a one year licence renewal until their next DBS Certificate is due. Proposed fees for both a 1 year licence and 3 year licence have therefore been calculated for approval. A shorter period licence may also be appropriate in the case of disciplinary issues, but each case should be assessed on its merits.
- 4.6 The fee income for the financial year 2014/15 has been reviewed and the fees have been calculated using a software toolkit developed by the Wales Licensing Expert Panel.
- 4.7 The methodology used to calculate the fees follows the processes set out in the fees toolkit. All general expenditure across the Licensing Section has been applied to generate an hourly rate for each member of staff.
- 4.8 The total general expenditure (£69713) is divided amongst each member of staff (7 in total) to give an hourly rate as follows:

Licensing Officer £41.08
 Senior Licensing Assistant £35.29
 Licensing Assistant £27.03
 Licensing Enforcement Officer £32.98

4.9 Officer time spent on tasks relating to the licence type has also been calculated in minutes such as dealing with enquiries, general administration, meetings, project work and training. The total cost for additional officer time in relation to taxi drivers is £23,229 and is apportioned across the relevant applications received.

4.10 The process steps involved in the administration of the dual hackney carriage and private hire vehicle driver's licence have been set out with the time spent by each officer being applied to each process step. As set out in legislation, the cost of enforcement must be excluded from this process. New procedures have been built into the grant and renewal processes (and therefore officer time spent on the process) with the introduction of a new corporate DBS processing system, the implementation of electronic records management and a new DVLA driver licence checking processes.

4.11 This cost of the administration of the licence (based on the hourly rates calculated in paragraph 4.8) are added to the 'total other charges' as follows:

Cost of 1 year licence	£
Administrative cost of grant & issue of licence	61.28
Total other charges	40.51
Total Grant Fee 1 year driver licence	101.79

Cost of 1 year licence renewal	£
Administrative cost of grant & issue of licence	22.08
Total other charges	40.51
Total Renewal Fee 1 year driver licence	62.59

Cost of 3 year licence	£
Administrative cost of grant & issue of licence	72.07
Total other charges	99.16
Total Grant Fee 3 year driver licence	171.23

Cost of 3 year licence renewal	£
Administrative cost of grant & issue of licence	22.83
Total other charges	99.16
Total Renewal Fee 3 year driver licence	121.99

4.12 The table below shows the existing fees compared with the proposed new fees rounded to the nearest pound to assist fee collection:

	Existing Fee	Proposed 1 Year Fee	Proposed 3 Year fee
Driver Grant	£93	£102	£171
Driver Renewal	£50	£63	£122
Disclosure and Barring Service Certificate external charge* subject to increase and applied to the above fee where required	£44		

As outlined in a previous report to Committee, the licensing budget overall has shown a deficit of income and Members were advised that work was underway to pinpoint the origin of the deficit for future fee setting. However, the implementation of the Deregulation Act 2015 requires fee setting to be brought forward on two specific licence types, private hire operators and taxi driver, but this deficit has not been included in the fee setting process for these licences.

The methodology of calculating fees is considered a robust method of meeting the guidance issued by the Local Government Association in respect of calculating locally set fees. The methodology has been applied to central support costs and data collected in 2014/2015. Fee setting processes have developed from recent case law together with guidance on elements that may be included in the calculations. Fee variations are therefore likely to occur year on year as a result of incorporating the guidelines as well as variations in central recharges and direct costs. However, as set out in the LGA guidance, to ensure that fees remain reasonable, it is necessary to establish a regular and robust review process to allow fine tuning of fees. As this is the first year of using the toolkit process, should a surplus or deficit accrue as part of the final outturn position for 2015/16, this will be taken into account when setting the fees in the next financial year.

4.13 Changes to Policy and Conditions

4.13.1 The Licensing Committee is requested to approve the following policy changes and procedures. Approval is sought to amend Section 8 of the current taxi licensing policy statement (Statement regarding the Relevance of

Convictions and Licensing of Ex-Offenders approved on 13 January 2012), as follows:

Current policy

- 8.2 Grant of Licence: Clear Criminal Records Bureau (CRB) Disclosure and no endorsements on DVLA driving licence;

Proposal

- 8.2 **Grant of Licence: Where all pre-licensing requirements have been met, and the applicant has a clear Disclosure and Barring Certificate and no endorsements on DVLA driving licence, a licence to drive hackney carriages and private hire vehicles will normally be granted for a period of three years.**

Current policy

- 8.3 Renewal of Licence: No further cautions, criminal or civil convictions, motoring offences or complaints since the last renewal with a maximum of three penalty points on DVLA driving licence since last renewal. Where an applicant has accrued three penalty points since the last renewal, cases will normally only be referred to a Licensing Sub-Committee where the applicant has not remained free of conviction for a period of five years.

Proposed policy

- 8.3 Renewal of Licence: No further cautions, criminal convictions, civil matters, motoring offences or complaints since the last renewal with a maximum of three penalty points on DVLA driving licence since last renewal. Where an applicant has accrued three penalty points since the last renewal, cases will normally only be referred to a Licensing Sub-Committee where the applicant has not remained free of conviction for a period of five years.

Applications determined under the Scheme of Delegation to Officers will normally be granted for a period of three years or for such lesser period as is required/requested to align the Disclosure and Barring Certificate re-check with the expiry date.

- 4.13.2 That the following additional conditions are introduced in respect of driver licences as follows:

Upon the grant or renewal of a licence where a medical certificate expires during the period of the licence, the licensee shall submit the approved medical certificate to the Council no later than the due date specified in the written notice issued seeking production of the certificate.

5. Effect upon Policy Framework & Procedure Rules.

- 5.1 The Committee's powers to set fees are outlined within the Council's Constitution.

6. Equality Impact Assessment

A high level equality impact assessment (EIA) was undertaken on the Council's budget proposals and updated MTFS and reported to Council on 25 February 2015.

7. Financial Implications.

- 7.1 On 19 March 2015 the Licensing Committee resolved that there should be no increase in licence fees for 2015/16 pending an annual review of fees. However, it is necessary to set fees for Hackney Carriage and Private Hire Vehicle Driver Licences as a result of the implementation of the Deregulation Act 2015. Should a surplus or deficit accrue as part of the final outturn position for 2015/16, this will be taken into account when setting the fees in the next financial year.

8. Recommendation.

- 8.1 That the Committee approves the proposed licence fees outlined in this Report with an implementation date of 1st October 2015.
- 8.2 That the Committee approves the changes to the Statement of Policy regarding the Relevance of Convictions and Licensing of Ex-Offenders outlined in paragraphs 4.9.1 and 4.9.2 above.

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Background documents:

Open for Business; Local Government Association Guidance on locally set fees

