**Licensing Regulatory Committee**

**RECORD OF DECISION**

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| **Date Of Meeting: 20th July, 2017**  **Agenda Item: 7 – Implementation of a Hackney Carriage and Private Hire Dual Drivers’ Licences Application** |

**Findings of any relevant facts:**

* Hackney Carriage and Private Hire Driver Licences are created by separate statutes, and as such applications for licences have traditionally been processed individually
* The framework for this licensing regime is contained within the following Acts:
  + Hackney Carriage Driver Licences – Section 46 of the Town Police Clauses Act 11847 and
  + Private Hire Driver Licences – Section 51 of the Local Government (Miscellaneous Provisions) Act 1976
* A number of drivers hold both Hackney Carriage and Private Hire Drivers Licences
* Applications are made at different times and processed separately, with separate and different expiry dates
* A number of Councils operate Dual Drivers’ Licences Application systems, allowing applications for both licence types to be considered simultaneously
* Both licences would then be issued with the same expiry date
* A single application process would be followed to review both licences, significantly reducing the administrative burden and costs
* Requests from licences drivers to consider introducing a Dual Hackney Carriage/Private Hire Drivers’ Licences Application have been received by the Licensing Team
* Offering a Dual Drivers’ Licences application would provide the following benefits:
  + Drivers would only incur the time and cost of one application
  + A reduction in officer and administration time
* The process for applying for either a Hackney Carriage or Private Hire Drivers Licence is identical
* A simpler process of renewal involves a declaration of previous convictions, DVLA check and a DBS check, if out of date
* Medical history is also reviewed dependent upon age
* 3 year licences required a new DBS Certificate
* The introduction of Dual Drivers’ Licences has been consulted upon with existing drivers
* Comments were requested to be submitted before 15th June 2017
* Information was sent to all existing drivers via email, all Private Hire Operators and to the Secretary of the Furness Taxi Trade Association
* A total of 13 responses were received:
  + 5 Private Hire Drivers
  + 4 Hackney Carriage Drivers
  + 3 Private Hire and Hackney Carriage Drivers
  + 1 Private Hire Operator
* Two questions were asked:
  + Are you in favour of the implementation of a dual licence/badge?
    - Yes – 100%
  + To reduce the administrative burden of additional applications mid-term, do you accept the proposed phased implementation, ie, on renewal applications only?
    - Yes – 86%
* It is proposed that this application type would only be available upon renewal
* Allowing existing drivers to make a dual application straightaway will produce 1 and 3 yearly peaks in income and resource demand
* This will create difficulties in terms of financial budgeting and in allocating resources
* It is proposed that a Dual Drivers’ Badge will be granted for a 3 year or 1 year period
* The appropriate fees were approved in March this year (Licensing Regulatory Committee 9th March 2017 – Minute No 87)
* The reduced administrative work is reflected in a reduced application fee
* The fees applicable for 2017/18:
  + Hackney Carriage/Private Hire Driver Renewal (1 Year) - £102
  + Hackney Carriage/Private Hire Driver Renewal (3 Year) - £175
  + Driver Dual Badge – Renewal Only (1 Year - £139
  + Driver Dual Badge – Renewal Only (3 Year) - £277
* Driver Dual Badge Cost Savings:
  + 1 year licence - £65
  + 3 year licence - £73
* The majority of respondents were in favour of the phased introduction, however, a couple of respondents had requested the ability to combine their existing Private Hire or Hackney Carriage Drivers Licence to a Dual Drivers’ Badge
* The administration fee is calculated as £39
* There would be no financial or licensing advantage for drivers who currently hold both Hackney Carriage and Private Hire Driver Licences, to apply for a Dual Drivers’ Badge
* The methodology used to calculate fees was previously approved by Members:
  + Administration costs associated with the initial application and fee handling
  + Officer costs
  + Direct costs such as the cost of identification badges and DVLA checks
  + Support Services costs including overheads, IT maintenance, external legal advice and advertising
  + Compliance and monitoring costs
  + Adjustments to take into account any surplus or deficit from the 2015/16 out-turn budget
* When the Licensing Authority proposes to set new fees it must publish a notice of the proposed variation stating objections may be made within a period of not less than 28 days
* If objections are received the proposed fees will be brought back to the Licensing Regulatory Committee
* The proposed fees for new Dual Drivers’ Licences are:
  + Dual Drivers’ Licences Application Fee – New - 1 Year) - £148
  + Dual Drivers’ Licences Application Fee – New – 3 Years) - £267
* Town Police Clause Act 1847 - Section 46 Drivers not to act without first obtaining a licence:
* No person shall act as driver of any hackney carriage licensed in pursuance of this or the special Act to ply for hire within the prescribed distance without first obtaining a licence from the commissioners, which licence shall be registered by the clerk to the commissioners, and such fee as the commissioners may determine shall be paid, for the same; and every such licence shall be in force until the same is revoked, except during the time that the same may be suspended as after mentioned
* Local Government (Misc Provisions) Act 1976 - Section 51 Licensing of drivers of private hire vehicles:
* Subject to the provisions of this Part of this Act, a district council shall, on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver’s licence:  
  Provided that a district council shall not grant a licence—
* unless they are satisfied that the applicant is a fit and proper person to hold a driver’s licence; or
* to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver’s licence so authorised
* Section 54 Issue of drivers’ badges:
* When granting a driver’s licence under section 51 of this Act a district council shall issue a driver’s badge in such a form as may from time to time be prescribed by them
* Section 59 Qualifications for drivers of hackney carriages:
* Notwithstanding anything in the Act of 1847, a district council shall not grant a licence to drive a hackney carriage—
* unless they are satisfied that the applicant is a fit and proper person to hold a driver’s licence; or
* to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver’s licence so authorised.
* The Licensing Authority can set its own fees for the licensing regimes. The fee must be reasonable and cover the Council’s costs in the administration and the processing of those application types and further costs to ensure compliance
* The above regimes are covered by the European Union Services Directive. Regulation 18 of the Provision of Services Regulations 2009 which implements the EU Services Directive into UK law requires that fees charged in relating to authorisations must be proportionate to the effective cost of the process. The proposed fees must recover the council’s costs in relation to the licensing process and cannot be used as an economic deterrent or to raise funds
* Private Hire and Hackney Carriage Drivers:

Local Government (Miscellaneous Provisions) Act 1976, Section 53

*“may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so.”*

**Committee decision:**

* To approve a phased implementation of Dual Drivers’ Licences Application through the renewal process, for both 1 year and 3 year licences

**Reasons for decision:**

* Individuals can hold both Hackney Carriage and Private Hire Drivers’ Licences
* The majority of respondents (existing licensed drivers) are in favour of a phased implementation
* Increased flexibility, enabling a dual licence holder to drive both a Hackney Carriage and Private Hire Vehicle, licensed by Barrow Borough Council without the additional costs of two licence applications
* A driver would only incur the time and cost of one application
* A reduction in officer and administration time and associated costs
* For those licences which allow fees to be set locally, the Licensing Authority is allowed to recover its reasonable costs in processing and determining licence applications and also achieve compliance with the appropriate legislation
* The administration and operation of the licensing regime is able to operate at full cost recovery
* The fees are reviewed annually and should be surplus or deficit occur as part of the final outturn position for the financial year, this will be taken into account when setting the fees in the next financial year

**Reasons for not adopting other available options:**

The Licensing Authority felt that there was no reason to adopt any other options.

Date:

Signed:

(Chairman)

**Licensing Regulatory Committee**

**RECORD OF DECISION**

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| **Date Of Meeting: 20th July, 2017**  **Agenda Item: 8 – Protected Cautions and Convictions** |

**Findings of any relevant facts:**

* The Rehabilitation of Offenders Act 1974 provides that criminal convictions and cautions for certain offences are deemed to be ‘spent’ after a specified period
* Offences for which a prison sentence of 30 months or more was incurred are excluded from rehabilitation and are never spent 9s5 ROA 1974)
* The Rehabilitation of Offenders Act 1974 (Exceptions Order 1975)(Amendment) England and Wales Order 2013 (‘the Exceptions Order 2013’) came into force on 29th May 2013 and allows certain old and minor cautions to no longer be subject to disclosure under the Exceptions Order
* All cautions and convictions for specified serious violent and sexual offences and other specified offences of relevance will remain subject to disclosure
* New categories of ‘protected cautions’ and ‘protected convictions’ have been introduced, which mean that after the passage of time the applicant must be treated as not having been charged with, convicted of or sentenced for any of those offences
* The Exceptions Order 2013 amends the Exceptions Order 1975 by removing most protected cautions and convictions from the exceptions to rehabilitation under the ROA 1974, however, there are still a small number of positions where all convictions and cautions (included protected convictions and cautions) may still be disclosed and taken into account
* Protected Caution
  + A conviction is only a ‘protected caution’ if:
    - It does not relate to a listed offence
    - It was given to a person aged under 18 at the time of the caution and two years or more have elapsed
    - It was given to a person aged 18 or over at the time of the caution and six years or more have elapsed
* Protected Conviction
  + A conviction is only a ‘protected conviction’ if:
    - It does not relate to a ‘listed offence’ such as violence and sexual offences
    - No custodial sentence was imposed
    - It is the only conviction that the individual has received
    - It was received by a person aged under 18 at the time of the conviction and five and a half years or more have elapsed; and
    - It was received by a person aged 18 or over at the time of the conviction and 11 years or more have elapsed
* The Council as a Licensing Authority can take account of disclosure information from the DBS including convictions which have been recorded against the applicant or holder of a private hire vehicle or hackney carriage drivers’ licence and can have regard to all relevant cautions and convictions or allegations, particularly where there is a history of offending or a pattern of repeat offending/allegations
* If an applicant or existing licence holder has been arrested, charged or summonsed but not convicted for an offence, the nature of which suggests there would be concerns for the safety of the travelling public (particularly serious offences) consideration will be given to refusing an application and the Environmental Health Manager will refer the application to the Licensing Regulatory Committee for determination.
* Under the Provisions of ss.51, 55 and 59 Local Government (Miscellaneous Provisions) Act 1976, the Licensing Authority is required to ensure that an applicant for the grant or renewal of a licence is a ‘fit’ and ‘proper’ person to hold a licence
* When determining whether the person is a ‘fit’ and ‘proper’ person the Council will have regard to the following:
  + The relevance of the offence(s) or other matters revealed in the application
  + The seriousness of any offence(s) or any other matter revealed
  + The class/nature of the offence(s)
  + The age of the offence(s)
  + The age of the person at the time of the offence(s)
  + Whether the disclosure reveals a pattern of behaviour
  + Whether the applicant’s circumstances have changed since the offending behaviour or the other relevant matters;
  + Any other information that is deemed appropriate for consideration in determining whether the person is a ‘fit’ and ‘proper’ person
* The Council is also entitled to use all other records and information available to it in determining applications or entitlement to continue holding a licence
* This may include information held by the Council or other Licensing Authorities and information held by the police under the Home Office Scheme for reporting offences committed by notifiable occupations
* The overall offending history will be considered when assessing a person’s suitability to be licensed or to continue holding a licence
* Amendments are required to Section 7 and Section 8 of the Fitness of Applicants for Hackney Carriage and Private Hire Drivers Licences Policy following a legislative change
* The changes were highlighted within the report

**Committee decision:**

* To approve the minor amendments to the Fitness of Applicants for Hackney Carriage and Private Hire Driver’s Licences Policy

**Reasons for decision:**

* The amendments to the Fitness of Applicants for Hackney Carriage and Private Hire Driver’s Licences Policy is required following a legislative change

**Reasons for not adopting other available options:**

The Licensing Authority felt that there was no reason to adopt any other options.

Date:

Signed:

(Chairman)