

Consideration to review licensing policy to allow licence holders to work for more than one operator at a time

Licensing Committee

Date: 14 March 2019

Author:	Kathryn Ashton – Licensing Manager
Wards:	All
Locality Affected:	All
Parishes Affected:	All

1. Purpose and Reasons

- 1.1 The purpose of this report is to consider a request to remove the restriction on Private hire licence holders to enable them to work for any number of licensed operators at any one time without restriction.
- 1.2 An email requesting removal of the current restriction has been received from Councillor James Robbins and is shown at Appendix A.

2. Recommendations

That The Committee:

- 2.1 Consider the request for the removal of the restriction as proposed. In principle the Licensing Manager does not oppose this however, the current process works well in respect of safeguarding.
- 2.2 It is recommended that the Committee continue to grant delegated authority to the Licensing Manager to continue to license drivers and to amend any operational procedures required to safeguard the fare paying public.

3. Detail

- 3.1 The requirement to hold a licence is contained in the Local Government (Miscellaneous Provisions) Act 1976,s 46(1)(b)(LG(MP)A1976):
- 3.2 No Person shall in a controlled district act as a driver of any private hire vehicle without having a current licence under section 51 of the LG(MP)A 1976,s51;
- 3.3 Currently all drivers licensed by Swindon Borough Council receive a paper licence which is locally known as the “green form”. Drivers are required to deposit this form with the operator from whom they receive bookings and may only receive bookings from another operator if they transfer their ‘green form’.
- 3.4 The purpose of the ‘green form’ is to ensure that the private hire operator knows that the driver is properly licensed by this authority. Without sight of the licence the operator cannot provide bookings to the driver.

Further information on the subject of this report can be obtained from Kathryn Ashton, Licensing Manager on 01793 466113, or by email: kashton@swindon.gov.uk

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- 3.5 Officers are of the opinion the overarching principle behind the licensing of private hire and hackney carriage vehicles is one of public safety. As a result the Council has maintained the policy of only allowing one green form per driver. This enables the licensing authority to trace drivers activities closely. This has proved useful where a complaint has been received about a driver or the Police are undertaking an investigation in respect of a driver's behaviour.
- 3.6 For safety reasons it is of paramount importance that all vehicles are recognisable to the general public. Therefore it is currently a mandatory requirement for licensed vehicles to have door signage disclosing the name of the operator on each rear door whilst the driver is receiving bookings through that operator. Allowing a driver and vehicle to work for any operator would render this requirement impractical, compelling drivers to carry signage for each operator that they have lodged a green form with, and to change it if a booking is received from a different operator from the one displayed on the vehicle. This may be overcome if the current mandatory signage of the operator be combined with mandatory signage of pre booked fares only otherwise uninsured. This would still allow operator signage as magnetic signage in addition to the permanent signs.
- 3.7 All drivers have the option of obtaining their own operator licence at a minimal cost of £350 which would give them the flexibility of accepting additional work on a sub-contract basis from any other source.
- 3.8 A currently licensed private hire driver could also obtain a hackney carriage drivers licence at a minimal cost £70 which would also give the flexibility being sought by this policy change which has serious health and safety implications.
- 4.0 Options**
- 4.1 The current policy remains the same.
- 4.2 The restriction is removed to allow licensed drivers to work for all licensed operators at any one time.
- 4.3 The policy relating to mandatory signage be amended with generic signage be compulsory stating pre booked fares only uninsured if not pre booked or wording to be agreed.

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5.0 Consultation with the trade

- 5.1 There has been no separate formal consultation by the Licensing office directly with individual licence holders. As of this date there are 41 Operators licensed by SBC, and 1003 private hire drivers.

6. Conclusion

- 6.1 It is intended that if Members agree to the proposal, any change in conditions will be implemented not sooner than 1st June 2019.

7. Implications, Diversity Impact Assessment and Risk Management

It is not believed that there is any significant risk.

8 Financial and Procurement Implications

- 8.1 There are no direct financial implications arising from the report.
- 8.2 The removal of the Restriction would have financial implications for the operators and could reduce the operator licence income for the Council affecting the ability for the Council to maintain the service at its current level.
- 8.3 The cost to the Council in terms of officer time in the carrying out enforcement of the operator licensing regime will be covered by licensing fees.

9 Legal and Human Rights Implications

- 9.1 A declaration has been made by the Secretary of State, that the Licensing Act is compliant with the Human Rights Act. None of the relevant Articles of the Human Rights Act has absolute sway over the others. Article 8 deals with a right to undisturbed home life; Article 10 gives the right to free expression, including the right to entertain; Article 1 of the Protocol says that licences are 'possessions', which the holder has a right to enjoy. Common sense has to be used, in balancing each of these against the other.

10.0 Diversity Impact Assessment

It is not considered that the preparation of a DIA is required in respect of this report.

11.0 Consultees

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The Director of Law (Monitoring Officer) is consulted in respect of all reports.

12.0 Appendices

12.1 Appendix A – Email from Councillor James Robbins