

Review of the licensing policy in regard to allowing private hire licence holders to work for more than one operator at a time – Results of Consultation exercise

Licensing Committee

Date: 5 October 2020

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Wards:	All
Locality Affected:	All
Parishes Affected:	All

1. Purpose and Reasons

- 1.1 The Licensing Committee first considered this matter on the 14th March 2019, in response to a request to remove the restriction on private hire licence holders which currently enables them to work for only one licensed operator at any time. An email requesting removal of the restriction by a number of drivers was received from Councillor James Robbins and is shown at Appendix A.
- 1.2 It was decided that further consultation was required and a survey was undertaken, the results of which are at Appendix B.
- 1.3 The purpose of this report is to consider the responses received during the 12 week consultation period of the review of the private hire drivers licence known as the 'green form'; and to propose any amendments to the policy and driver licence requirements.

Recommendations

That the Committee:

- 1.4 Considers the request for the removal of the restriction as proposed noting that the current process works well in respect of safeguarding and the safety of the fare paying travelling public.
- 1.5 It is also recommended that the Committee continues to grant delegated authority to the Licensing Manager 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

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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.
- 3.5 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 driver's 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 Currently drivers receive bookings from their operator through a device in their vehicle called a PDA, which is supplied by their operator. The operator keeps records of bookings through this device, which ensures the tracking of jobs completed by the driver for that operator.
- 3.7 For safety reasons it is of paramount importance that all vehicles are recognisable to the 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. If a driver were to be allowed to work for multiple operators then signage on licensed vehicles ought to change to reflect the operators requirements. Other signage on the vehicle advises customers that fares should be pre-booked, otherwise the vehicle is uninsured. These advisory signs would need to become mandatory and the signage should be permanent in the form of applied vinyl. This would still allow operator signage to be removable in the form of magnetic signage, which would be in addition to the permanent signs.
- 3.8 Any driver has the option of obtaining their own operator licence at a minimal cost of £350 giving them the flexibility of accepting additional work on a sub-contract basis from any other source.
- 3.9 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 to allow a driver to purchase or hire a hackney vehicle and work as his or her own operator. These options still maintain a degree of accountability and would mitigate any safeguarding, health and safety implications that might arise from a change to the current policy.

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- 3.10 There have been six responses to the consultation which are attached as Appendix B. The consultation outlined the consideration to change the policy and sought opinion as a 'for' and 'against'. The results are inconclusive in this as 66.7 voted to retain the policy in its current form yet the following question had 66.7% in favour of changing the policy. There are 3 comments added as additional information one of which clearly states the desire to allow drivers to work for any number of operators. Whilst in principle the Licensing Manager does not oppose any change to the policy, there is clearly no majority demand to do this from those responses received. It should be noted that the current process works well in respect of safeguarding and the safety of the fare paying travelling public.

4.0 Options

- 4.1 The current policy remains the same.
- 4.2 If restriction is removed to allow licensed drivers to work for all licensed operators at any one time, then consideration should be given to point 4.3
- 4.3 In the event that the policy is changed, then the policy relating to mandatory signage should be amended, and generic signage be compulsory stating pre booked fares only and uninsured if not pre booked or such wording as to be agreed. This signage to be permanently affixed to all licensed private hire vehicles on each front door. Operator signage including a telephone number to be on each rear door and to be removable to allow flexibility. An example of such signage is attached as Appendix C.

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 April 2021.

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7. Implications, Diversity Impact Assessment and Risk Management

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 operator licence income for the Council affecting the ability of the Council to maintain the service at its current level.
- 8.3 The cost to the Council in terms of officer time carrying out enforcement of the operator-licensing regime will be covered by licensing fees. The Council would purchase the applied door signage and recover the cost through the 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

The Chief Officer Legal Services (Monitoring Officer) is consulted in respect of all reports.

12.0 Appendices

- 12.1 Appendix A – Email from Councillor James Robbins.
- 12.2 Appendix B – Results of 12 week online consultation

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12.3 Appendix C – Proposed Applied vinyl stickers

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