

Planning, Regulatory and Licensing Report

Date Written	24 th February 2015
Report Author	Paul Lewis/Simon Jones
Service Area	Trading Standards, Licensing and Transport
Exempt/Non Exempt	Non exempt
Committee Date	4 th March 2015

To: Chairman, Ladies and Gentlemen

Change to Hackney Carriage and Private Hire Driver and Vehicle Conditions, Application Process and Fees

PURPOSE OF THE REPORT:

For Members to consider a change to Hackney Carriage and Private Hire Vehicle Driver and Vehicle Conditions, the Application Process and the Fees following the conclusion of the initial consultation exercise.

1.0 INTRODUCTION AND BACKGROUND

- 1.1 On the 7th January 2015 a report was put to the Planning Regulatory and Licensing Committee detailing the background and the reasons for the proposals by the Licensing Section of the Council to amend the following:-
- i) Hackney Carriage and Private Hire Vehicle Driver conditions,
 - ii) Hackney Carriage and Private Hire Vehicle conditions,
 - iii) The application process and
 - iv) The fees for Hackney Carriage drivers and vehicles
 - v) The fees for Private Hire Vehicle drivers and vehicles .
- 1.2 Under the Local Government (Miscellaneous Provisions) Act 1976 (LGMPA 76), the provisions controlling the levying of fees are:

- LGMPA 76 section 53(2), in respect of drivers' licences for both hackney carriages and private hire vehicles; and
- LGMPA 76 section 70 for hackney carriage proprietors' licences, private hire vehicle licences and private hire operators' licences

1.3 After considering the report the Planning, Regulatory and Licensing Committee approved that the aforementioned proposals go to public consultation. The consultation took the form of four questions detailed at 2.1 (a), (b), (c) and (d) below with the consultation process involving the following steps. –

- The proposals were displayed on the Local Authority website between the 14th of January and the 25th February inviting representations be made to the Licensing Section.
- The proposals were displayed on the Cwm Taf Consultation Hub between the 19th January and the 16th February.
- A letter enclosing a questionnaire and free post return envelope on proposals was sent to-
 - The Chief Constable South Wales Police.
 - All Private Hire Drivers License holders.
 - All Hackney Carriage Driver License holders.
 - All Private Hire vehicle proprietors.
 - All Hackney Carriage vehicle proprietors.
 - The Authority nominated plating station.

2.0 CONSULTATION RESPONSES

2.1 A total of 29 questionnaires were returned, these can be viewed by members by contacting the licensing section or the legal section.

Question (a) asked:

- It is proposed that from the 1st April 2015 Hackney Carriage and Private Hire Driver Licences are issued for a 3 year period changing from the current annual licence. As part of this proposal a Disclosure and Barring check will be carried out once every 3 years instead of the current yearly check. Do you agree with this proposal?**

27 (93%) Agreed

Sample of comments:

- "...it's nice to see the council looking into things and trying to make things easier in these difficult times..."
- "...more convenient plus save money"

2 (7%) Disagreed

Sample of comments:

- “This would mean a driver could get into trouble with the police and you wouldn’t know about it for 3 years, in this period they could be doing school contracts”

Question (b) asked

- b) **It is proposed all Hackney Carriage and Private Hire Vehicles will be subject to a six monthly check and the requirement for the 4 monthly check on vehicles over 8 years old removed. The check will consist of an M.O.T. and conditions compliance check carried out by the Authority’s nominated station. The fee for this test will be paid directly to the garage. Do you agree with this proposal?**

25 (93%) Agreed

Sample of comments:

- “More convenient and save money”

2 (7%) Disagreed

Sample of comments:

- “Once a car is MOT’d it is so for 12 months...”

2 Questionnaires did not provide an answer.

Question (c) asked

- c) **It is proposed the new fee structure for Hackney Carriage and Private Hire Driver Licences will be £150 for a new application and £130 for a renewal application. In addition a DVLA mandate fee of £15 and a Disclosure and Barring Service fee of £44 will also be charged. Do you agree with this proposal?**

22 (81%) Agreed

Sample of comments:

- “Only if DVLA & DBS fee isn’t every year”

5 (19%) Disagreed

Sample of comments:

- “I have already set a direct debit for disclosure barring and don’t feel the need for change”

- “DBS service will cost £39 over 3 year or £44 one off payment, does not make big difference. Also I think renewal should cost around £100...”

2 Questionnaires did not provide an answer

Question (d) asked

d) It is proposed the annual cost for an annual Hackney Carriage or Private Hire Vehicle Licence is £75. Do you agree with this proposal?

24 (92%) Agreed

Sample of comments:

- “Always good to save money”
- “If it’s saving us money without putting the public in danger...”

2 (8%) Disagreed

Sample of comments:

- “You are taking too much money from people trying to make a living”
- “£75 per year and test fee to only one test centre is no good for me unless there more choice of testing station. Also the letter doesn’t clarify how much it will cost @ the testing station”

3 Questionnaires did not provide an answer

- 2.2 A response was received from South Wales Police on 16th February 2015 (see Appendix 1).
- 2.3 In response to question 1, South Wales Police raise issues over 3 yearly DBS checks. However, taxi driving is a Notifiable Occupation so any convictions of a licensed driver should be brought to the Licensing Section’s attention by the Police. It is also a requirement of the by-laws and conditions attached to the driver’s licence that they notify the Licensing Section of any conviction or caution received.
- 2.4 South Wales Police also state that they believe “this is a revenue generating exercise which may either encourage existing MTCBC drivers to seek employment elsewhere or, in a worse (*sic*) case scenario, encourage them to become ‘ghost taxis’ and conduct their activities in an unlicensed manner”. The cost of this Authority’s licences will actually decrease if these proposals are implemented.
- 2.5 When deciding whether or not to accept the changes proposed in paragraph 1.1, the Council must have regard to the consultation responses and ensure that its decision is Wednesbury reasonable both in relation to the taxi trade and the wider public.

3.0 NEXT STEPS

- 3.1 If it is resolved to implement the s70 LGMPA 76 changes mentioned in paragraph 1.1 in respect of the changes relating to the Hackney Carriage Vehicle licence fee and the Private Hire Vehicle licence fee the Council must comply with section 70 of the Local Government Miscellaneous Provision Act 1976 which states:-

3(a) If a district council determine that the maximum fees specified in subsection (2) of this section should be varied they shall publish in at least one local newspaper circulating in the district a notice setting out the variation proposed, drawing attention to the provisions of paragraph (b) of this subsection and specifying the period, which shall not be less than twenty-eight days from the date of the first publication of the notice, within which and the manner in which objections to the variation can be made.

3(b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of twenty-eight days from the date of the first publication thereof be deposited at the offices of the council which published the notice and shall at all reasonable hours be open to public inspection without payment.

(4) If no objection to a variation is duly made within the period specified in the notice referred to in subsection (3) of this section, or if all objections so made are withdrawn, the variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.

(5) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the variation shall come into force with or without modification as decided by the district council after consideration of the objections.

- 3.2 If it is resolved to implement the s53 LGMPA 76 changes mentioned in paragraph 1.1 then the changes to the Hackney Carriage Vehicle Drivers licence fee, and the Private Hire Vehicle Drivers licence fee would come into effect on the 1st April 2015. There is no statutory requirement to consult as is the case with the s70 LGMPA 76, fees but the Council would be criticised and possibly become subject to challenge if it did not undertake sufficient consultation. It is considered that the consultation detailed in paragraph 1.3 above is sufficient for the Council to make a decision with regard to the reasonableness of the changes.
- 3.3 The other changes to the conditions will come into effect immediately should a resolution be made to implement the same.

4.0 FINANCIAL IMPLICATION(S)

- 4.1 The current cost of an annual Driver Licence is £168.97p for a new licence and £71.54p for a renewal. It is proposed a new three year Licence would cost £150 and a renewal cost of £130. A DBS fee of £44 would also be charged and £15 for DVLA mandate checks to be conducted. Based on current drivers figures and new

applications received £26,817 is a projected total loss of income over the three year period.

- 4.2 As a result of the Transport section being relocated alongside Trading Standards and Licensing if approved a restructuring of staff within Licensing and Transport will offset any loss of income and realise further efficiency savings for 2016/17 and 2017/18.
- 4.3 Concerning the changes proposed to vehicle testing the reduction in income of £185 to £75 per vehicle will be offset by the removal of expenditure around testing fees.
- 4.4 If implemented the proposed changes will save Hackney Carriage and Private Hire Drivers up to £250 over a three year period.

5.0 SINGLE INTEGRATED PLAN AND SUSTAINABILITY IMPACT SUMMARY

- 5.1 The Community Plan & Sustainability Impact Assessment has been completed and the proposals may have a positive impact on People in Merthyr Tydfil having the opportunity and aspiration to learn and develop their skills to maximise their potential, a strong and sustainable economy, and a negative impact/threat concerning People enjoying a vibrant, attractive, safe and sustainable place in which to live, work, play. To mitigate the risk discussions with South Wales Police will seek to clarify notification processes.

6.0 EQUALITY IMPACT ASSESSMENT

- 6.1 An Equality Impact Assessment (EqIA) screening form has been prepared for the purpose of this report. It has been found that a full report is not required at this time. The screening form can be accessed on the Council's website/intranet via the 'Equality Impact Assessment' link.

7.0 RECOMMENDATION(S) that

- 7.1 Merthyr Tydfil County Borough Council introduces a 3 year Hackney Carriage driver's licence with effect from the 1st of April 2015. The Authority will still carry out yearly DVLA checks on all licensed drivers as part of this process.
- 7.2 Merthyr Tydfil County Borough Council introduces a 3 year Private Hire Vehicle driver's licence with effect from the 1st of April 2015.. The Authority will still carry out yearly DVLA checks on all licensed drivers as part of this process.
- 7.3 From the 1st April 2015 the cost of a new Hackney Carriage Drivers' licence shall be £150 with a renewal licence costing £130.
- 7.4 From the 1st April 2015 the cost of a new Private Hire Vehicle Drivers' licence shall be £150 with a renewal licence costing £130.
- 7.5 From the 1st April 2015 the Merthyr Tydfil County Borough Council introduce a requirement that all hackney carriage and private hire vehicles shall be subject to

two tests per year with an MOT conducted at each test along with checks relating to the vehicle displaying the correct plates and information as prescribed by Conditions. Fees for the testing of the vehicles will be paid directly to the testing section by the proprietor of the licensed vehicle.

- 7.6 That the statutory procedure as defined in section 70(2) of the LGMPA 76 be followed prior to the proposed introduction of the changes to:
- a. The hackney carriage proprietors' fee and,
 - b. The private hire vehicle fee,
- 7.7 Should objections be made following publication of this notice (which are not subsequently withdrawn) then delegated authority be given to the Licensing Manager in consultation with the Chair of the Planning Regulatory and Licensing Committee and the Senior Solicitor to consider the objections and to set a second date upon which the proposed fees or further amended fees come into force.
- 7.8 The Council's conditions shall be amended in accordance with the changes introduced by paragraphs 7.1 to 7.7 above.

**ELLIS COOPER
CORPORATE DIRECTOR OF CUSTOMER SERVICES**

BACKGROUND PAPERS		
Title of Document(s)	Document(s) Date	Document Location
Copies of returned questionnaires	20 th February 2015	Licensing Section

Consultation has been undertaken with the Corporate Management Team in respect of each proposal(s) and recommendation(s) set out in this report.

Hackney Carriage and Private Hire conditions and fees

In responding to this consultation questionnaire, the views of senior and managerial staff across Northern BCU have been collated and considered.

The cumulative views are as follows: -

1. Proposal to change the annual licence renewal to a 3 year renewal process

This will clearly reduce the demand on the administrative burden of annual renewal however this change may potentially provide a window of opportunity for those capable or desiring to exploit those more vulnerable individuals within our community.

It is accepted that as taxi driving is regarded as a Notifiable Occupation that we will notify the Local Authority of any relevant convictions on a regular basis, however the main concern is that predatory individuals may potentially pass unnoticed for an extended period of time.

We would like a robust referral process to be implemented with appropriate partner agencies and Local Authority departments (Children's Care/ Adult Welfare etc) to reassure us and regular monitoring to ensure compliance.

We will continue with our process of reviewing occurrences and intelligence linked to taxi drivers (including serious sexual offences) and progress via the "fit and proper" test at an early stage, liaising with appropriate agencies and departments.

We also accept that this change is similar to that implemented in RCTCBC, where the renewal period is every 2 years.

2. Change from 4 monthly road worthiness tests to 6 monthly

We have no relevant concerns and feel that this does not impact on policing and understand that any associated road traffic offences would be notified by the yearly DVLA review and potentially dealt with under the "Totting up" process.

3. Change to the fee structure

We have no relevant concerns and feel that this does not impact on policing.

We accept that this proposal will increase the fees paid to MTCBC over those paid to similar employees of RCTCBC.

The comparison being –

RCTCBC - £112 (Application and renewal). DBS £44 and DVLA £5

MTCBC – proposed £150 application and £130 renewal. DBS £44 and DVLA £15

4. Annual licence fee changed to £75

We have no relevant concerns from a policing perspective

It is obvious that MTCBC are looking to reduce demand on the processing of renewals and that these proposals will bring them more in line with the RCTCBC procedures, however it is also apparent that this is a revenue generating exercise which may either encourage existing MTCBC drivers to seek employment elsewhere or, in a worse case scenario, encourage them to become "ghost taxis" and conduct their activities in an unlicensed manner.

We would encourage MTCBC to ensure that proper and robust monitoring and enforcement procedures are in place to discourage and/or identify those acting in an unlicensed manner, and maintain regular and appropriate liaison with their policing colleagues.