

Subject: Proposal to introduce an Annual
Hackney Carriage and Private Hire
Licence and Statutory Declaration

Status: For Publication

Report to: Licensing Committee

Date: 8th October 2007

Report of: Licensing Manager

Portfolio

Holder: Well Managed Council

Key Decision: No

Forward Plan

General Exception

Special Urgency

1. PURPOSE OF REPORT

- 1.1 To inform members of the current arrangements for hackney carriage and private hire driver licences which are issued for a 3 year period.
- 1.2 To propose that hackney carriage and private hire drivers licences are issued annually.
- 1.3 To propose that a Statutory Declaration on all renewal applications for hackney carriage and private hire driver licences be implemented.
- 1.4 To request that a new fee for hackney carriage and private hire driver licences – first application – be adopted.
- 1.5 To request that a new fee for hackney carriage and private hire driver licences – renewal application – be adopted.

2. CORPORATE PRIORITIES

- 2.1 The matters discussed in this report impact directly on the following corporate priorities and associated corporate objective.
 - Delivering Quality Services to Customers (Customers, Improvement)
 - Promoting Rossendale as a cracking place to live and visit (Economy)
 - Improving health and well being across the Borough (Health, Housing)
 - Well Managed Council (Improvement, Community Network)

3. RISK ASSESSMENT IMPLICATIONS

3.1 There are no specific risk issues for members to consider arising from this report.

4. BACKGROUND AND OPTIONS

4.1 The current arrangements for applications for hackney carriage and private hire driver licences in respect of first applications are:

- An applicant passes a private hire/hackney carriage assessment with the Driving Standards Agency (DSA) - valid for life unless a licence is allowed to lapse for a period of more than 1 month.
- An applicant, on passing the above assessment, makes an appointment with the Licensing Unit who complete a document verification check for a Criminal Record Bureau (CRB) check – the return of a CRB can take up to 12 weeks but is usually received within 6 weeks
- Once the CRB has been returned (a copy of which comes direct to the Licensing Unit from the CRB), the applicant makes a further appointment with the Licensing Unit
- At this appointment, the applicant hands in:
 - A DSA assessment certificate
 - A medical declaration completed by their own doctor
 - A completed application to become a hackney carriage / private hire driver
 - 2 passport photographs
 - A fee for £150.00
- All documents are verified by the Licensing Unit and subject to Committee issues, a hackney carriage/private hire driver licence is issued for a period of 3 years

4.2 The current arrangements for applications for hackney carriage and private hire driver licences in respect of renewal applications are:

- 2 months prior to the expiry of the current hackney carriage/private hire driver licence, an applicant makes an appointment with the Licensing Unit who complete a document verification check for a Criminal Record Bureau (CRB) check
- Once the CRB has been returned, the applicant makes a further appointment with the Licensing Unit (renewals can be processed anytime within a calendar month of expiry)
- At this appointment, the applicant hands in:
 - A medical declaration completed by their own doctor
 - A completed application to become a hackney carriage/private hire driver
 - 2 passport photographs
 - A fee for £150.00

- All documents are verified by the Licensing Unit and subject to the Scheme of Delegation, a hackney carriage/private hire driver licence is issued for a period of 3 years.
- 4.3 Increasingly, on receipt of renewal applications for hackney carriage/private hire driver licence, it was discovered that hackney carriage/private hire drivers had failed to notify the Licensing Unit of convictions, cautions and/or fixed penalty notices received during the period of the hackney carriage/private hire driver licence.
- 4.4 Some of these unreported convictions, cautions and/or fixed penalty notices were received by the hackney carriage/private hire drivers within weeks of the hackney carriage/private hire drivers licences being issued remaining undiscovered by the Licensing Unit for up to 3 years
- 4.5 The unreported convictions, cautions and/or fixed penalty notices varied in seriousness from points on the DVLA driver licence to criminal convictions for fraud/dishonesty.
- 4.6 The DVLA records of 25 randomly selected drivers were audited in April of 2007 and an internal audit of all licensed drivers was conducted at around the same time, the results of which are included at Appendix 1.
- 4.7 Following the results of the audit all licensed drivers were provided with an amnesty period of 28 days in which convictions, cautions and/or fixed penalty notices could be disclosed to the Council without further action against them. The amnesty period did not protect individuals against a review of the licence by the Licensing Committee in light of convictions, cautions and/or fixed penalty tickets received since the initial grant of the licence.
- 4.8 The disclosure of convictions, cautions and/or fixed penalty notices is one of the ways the Licensing Unit assess whether or not an individual is a 'fit and proper person' to hold a hackney carriage / private hire driver licence:
- A Local Authority must not grant a licence to a Hackney Carriage or Private Hire driver unless they are satisfied that the applicant is a fit and proper person - Local Government (Miscellaneous Provisions) Act 1976, Section 59(1).
 - A Local Authority may refuse an application, refuse to renew an application or suspend a Hackney Carriage or Private Hire Drivers Licence if:
 - Since the grant of the licence, the applicant has been convicted of an offence involving dishonesty, indecency or violence,
 - Since the grant of the licence, the applicant has been convicted of an offence under that Act or failed to comply with the Act or any conditions of a licence or,
 - There is any other reasonable cause.
- 4.9 In the interest of public safety and in order to assist the Licensing Unit on obtaining current information relating to convictions, cautions and/or fixed penalty notices incurred by hackney carriage/private hire drivers, it is proposed that:

- An annual hackney carriage/private hire driver licence be introduced.
- An annual statutory declaration be introduced.

4.10 The proposed arrangements for applications for hackney carriage and private hire driver licences – first application – are:

- An applicant passes a private hire / hackney carriage assessment with the Driving Standards Agency (DSA) - valid for life unless a licence is allowed to lapse for a period of more than 1 month.
- An applicant, on passing the above assessment, makes an appointment with the Licensing Unit who complete a document verification check for a Criminal Record Bureau (CRB) check – the return of a CRB can take up to 12 weeks but is usually received within 6 weeks
- Once the CRB has been returned (a copy of which comes direct to the Licensing Unit from the CRB), the applicant makes a further appointment with the Licensing Unit
- At this appointment, the applicant hands in:
 - A DSA assessment certificate
 - A medical declaration completed by their own doctor
 - A completed application to become a hackney carriage / private hire driver
 - 2 passport photographs
 - A fee to be agreed and reflecting the fact that 2 appointments and additional checks and verification is required for a first time applicant
- All documents will be verified by the Licensing Unit and subject to the Scheme of Delegation, a hackney carriage/private hire driver licence will be issued for a period of 1 year

4.11 The proposed arrangements for applications for hackney carriage and private hire driver licences – renewal application – are:

- An applicant will make an appointment for renewal of their hackney carriage / private hire driver licence within one month prior to the expiry of the current licence.
- At this appointment an applicant will hand in the following documentation:
 - (Every 3-years) A completed application for a Criminal Record Bureau (CRB) check
 - (Every 3 years) A medical declaration completed by their own doctor – *this is subject to a further Committee determination on a separate report*
 - A completed and signed 'Statutory Declaration' – see appendix 2
 - A completed application to renew a hackney carriage / private hire driver
 - 2 passport photographs
 - A fee to be agreed and reflecting the fact that although only one appointment is now required, there is additional administration by the Licensing Unit as Licences will be annual rather than 3 yearly
- All documents will be verified by the Licensing Unit and subject to the Scheme of Delegation, a hackney carriage / private hire driver licence will be issued for a period of 1 year

- 4.12 Applications for renewal of a hackney carriage / private hire driver licence can be made within 1 calendar month prior to the expiry of the current licence, at present, if a licence is allowed to lapse for no more than 1 month after expiry of the current licence; the DSA assessment is still valid. This was agreed by Committee as a deterrent for drivers deliberately allowing their licence to lapse. It is believed that some drivers may be using this month as a period of grace.
- 4.13 It is further proposed that once a hackney carriage/private hire driver licence expires, it is no longer treated as a renewal. Therefore, if an applicant decides after expiry of a hackney carriage/private hire driver licence that they would like to become a hackney carriage/private hire driver, this should be treated as a 'first application'.

FEES

- 4.14 The current fee for a hackney carriage driver's licence or a private hire driver's licence is £150 for a licence which covers a period of 3 years. There is a further cost to drivers of £36 for a criminal record bureau disclosure; the process is administered within the Licensing Unit but no surcharge is added to the fee for administration costs.
- 4.15 At present, the total income for taxi licensing does not cover the costs of processing the application.
- 4.16 Section 53(2) of the Local Government (Miscellaneous Provisions) Act 1976, enables a local authority to recover such a fee as they consider reasonable with a view to recovering the cost of issue and administration in respect of driver's fees.
- 4.17 An analysis by Financial Services shows that a fee of £120 for an initial application and an annual renewal fee of £85 thereafter would enable the Licensing Unit to move towards a cost – neutral position in respect of taxi licensing.
- 4.18 The higher initial application fee is justified by the fact that two appointments are necessary for the grant of a driver's licence – one to receive and verify the application for a criminal records bureau disclosure and the second for the full application.

5. COMMENTS OF THE HEAD OF FINANCIAL SERVICES

- 5.1 As noted in the report the proposed increase in fees will more accurately reflect the cost of the Council's service provision.

6. COMMENTS OF THE EXECUTIVE DIRECTOR OF REGULATORY SERVICES

- 6.1 The recommendations are within the powers of the Council.

7. COMMENTS OF THE HEAD OF PEOPLE AND ORGANISATIONAL DEVELOPMENT

7.1 There are no direct human resource implications.

8. CONCLUSION

8.1 To introduce an annual hackney carriage/private hire driver licence with an annual statutory declaration would be in the best interest of public safety/welfare and assist the Licensing Unit in assessing (and being satisfied) that an individual is a 'fit and proper person' to hold a hackney carriage/private hire driver licence - Local Government (Miscellaneous Provisions) Act 1976, Section 59(1) as per 4.8 of this report.

9. RECOMMENDATION(S)

9.1 That an Annual Licence and application fee of £120 for new applications and £85 for renewals of applications be agreed, subject to approval by the Cabinet.

9.2 That an Annual Statutory Declaration be introduced, subject to approval by the Cabinet.

9.3 That should a hackney carriage/private hire driver licence expire, it will be treated as a first application subject to approval by the Cabinet.

9.4 That the above recommendations, if approved by the Cabinet be implemented by 26th November 2007.

10. CONSULTATION CARRIED OUT

10.1 Lancashire Constabulary

10.2 Taxi trade associations – Appendix 3

10.3 Legal Services

10.4 Licensing Unit Accountant

11. EQUALITY IMPACT ASSESSMENT

Is an Equality Impact Assessment required No

Is an Equality Impact Assessment attached No

Contact Officer	
Name	Tracy Brzozowski
Position	Licensing Manager
Service / Team	Legal & Democratic Services
Telephone	01706 238602
Email address	tracybrzozowski@rossendalebc.gov.uk

Appendices	
Document	Place of Inspection
Conviction Amnesty / Random DVLA check & Internal Audit results	Appendix 1
Proposed Statutory Declaration	Appendix 2
Relevant Extracts from Taxi Liaison Group Meeting	Appendix 3

Appendix 1

Convictions Amnesty Results

Regulatory Information

By virtue of condition 9 of the Rossendale Borough Council Hackney Carriage Driver Licence Conditions and by virtue of condition 13 of the Rossendale Borough Council Private Hire Driver Licence Conditions, a licensed driver must within 7 days, disclose to the Council, any convictions, cautions or fixed penalty notices.

The purpose of the taxi licensing regime is to protect the public and licensed drivers are expected to be persons of trust. Applicants must demonstrate that they are a 'fit and proper' person to hold such a licence. Criminal records are a major part of this process.

Background

The DVLA records of 25 randomly selected drivers were audited in April of 2007. The sample of 25 drivers comes from a population size of 250. Those audited represent 10% of the population. 7 drivers were found to have convictions, and thus, penalty points on their licence within the last 3 years. This amounts to 2.8% of the population and 28% of the sample size. 9 drivers were found to have 1 or more penalty points on their licence. This amounts to 3.6% of the population and 36% of the sample. The average number of penalty points is 6. All of the DVLA findings had not previously been declared by the driver concerned.

An internal audit of licensed drivers was conducted at around the same time as the DVLA audit in order to find drivers whom had failed to declare previous convictions. With the population of 250, 37 drivers were found to have undeclared offences. This represents 14.8% of the population.

35 drivers were found to have undeclared offences which were discovered either at the renewal stage of the licence application or through the application for a criminal record check. This represents 14% of the population and 94.6% of the sample. The remaining 2 drivers with undeclared offences are unspecified.

With 21 occurrences, SP30 (speeding offence) was the most common undeclared offence. MS90 (failure to provide information) was also found to be common with 4 occurrences.

One driver's licence was revoked by the Licensing Committee as a result of convictions obtained after the grant or renewal of the licence.

Combining the results, 62 drivers were found to have undeclared convictions and this represents 24.8% of the population.

The Amnesty

All licensed drivers were provided with an amnesty period of 28 days in which convictions, cautions and/or fixed penalty notices could be disclosed to the Council without further action against them in respect of the breach of licence conditions. The amnesty period does not protect individuals against a review of the licence by the Licensing Committee in light of convictions, cautions and/or fixed penalty tickets received since the initial grant of the licence.

Amnesty Results

The amnesty was offered to all drivers as contained on the licensing database. This represents a total of 269 drivers. Due to revoked licences remaining on the database, a 5% allowance is considered and brings the population to 256.

A total of 26 responses were received, representing a 10.1% response rate. A total of 24 offences were declared. 7 respondents declared "None".

5 licensed drivers notified of more than one conviction, caution and/or fixed penalty notice.

Disclosed offences were all minor traffic offences. The breakdown is detailed below.

Offence	Total
TS10	2
SP30	18
SP50	2
MS90	1
PC20	1

Key:

TS10 = failure to comply with traffic light signals
SP30 = speeding on a public road
SP50 = speeding on a motorway
MS90 = failure to give identity of driver, etc
PC20 = contravention of pedestrian crossing with moving vehicle

Additional Findings:

As a result of the DVLA findings, one licensed driver has failed to report two offences. Both relate to SP30 offences and a total of 6 points on the driving licence. Only one of these has been disclosed to the Council under the Amnesty provisions.

Appendix 2



Statutory Declaration of Medical Conditions, Convictions, Cautions and Pending Prosecutions for Hackney Carriage and Private Hire Drivers

Note: The Rehabilitation of Offenders Act 1974 does not apply to Hackney Carriage and Private Hire Driver's convictions.

It is essential that you read the booklet "Policy Statement on Guidelines to Convictions" and the notes on page 2 before completing this statutory declaration. All convictions of any kind must be disclosed.

I (full name):		Date of Birth:	
Of (full address)			
		Postcode:	

Do solemnly and sincerely declare that: (tick 1 and either declaration 2 or 3 as appropriate):

1.	I am aware of no disability or physical or mental medical condition that would affect my ability to drive a Hackney Carriage or Private Hire vehicle.	<input type="checkbox"/>
2.	I have never been convicted of any offence and I have never been cautioned for any offence and I am not subject to any pending prosecution.	<input type="checkbox"/>
3.	I list here full details of every offence for which I have ever been convicted, together with full details of every offence for which I have been cautioned, and full details of every offence for which I am currently being prosecuted.	<input type="checkbox"/>

Motoring and Criminal Convictions, Cautions and pending prosecution details (including 'spent' convictions)

Date of Conviction / Caution / Pending Hearing	Court	Offence	Penalty

If necessary, please continue on the reverse of the sheet.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Date:		Signature of the person making the declaration:	
-------	--	---	--

Declared before me: (signature of solicitor/commissioner for oaths – see note 4 on page 2):

Signature:		Name:	
At: (office address / address stamp)			

Notes:

1. Any person who knowingly and wilfully makes a statutory declaration which is false in a material particular is guilty of an offence and liable to conviction, to a term of imprisonment for a period of up to 2 years or to a fine or to both (Section 5 of the Perjury Act 1911).
2. Failure to disclose convictions, cautions and pending prosecutions can be taken into account when assessing the suitability of hackney carriage and private hire drivers to be licensed or continue to be licensed.
3. If you have declared any convictions or should information received from the Criminal Records Bureau (CRB) indicating that you have convictions which you may or may not have declared, then your application may be considered by members of the Licensing Committee. More information will be given to you in the event of this happening.
4. **Note to solicitor/commissioner for oaths:** Please would you remind the applicant that it is not a true declaration unless he/she has completed the table overleaf, giving details of all convictions and cautions if so required. Please write on the back of one of the applicant’s photographs the words “I certify that this is a true likeness of [applicant’s name]” and sign and date.

Motoring and Criminal Convictions, Cautions and pending prosecutions details continued:

Date of Conviction / Caution / Pending Hearing	Court	Offence	Penalty

Appendix 3

Relevant extract of: Minutes of the Taxi Trade meeting held on 7th August 2007 at 10am at the Meeting Room, Stubblee Hall

6. Amnesty – Unreported convictions

TB advised that this had been included on the managers update at the licensing Committee meeting held on 6th August 2007. TB then provided the background on previous checks and audits and advised that the amnesty period was provided in an effort to get all records up to date. TB advised that there was concern with regard to the response rate.

Following on from an item raised at the licensing committee meeting held on 6th August 2007, TB advised that the Authority must not grant a licence to a person who is not a fit and proper person to hold such a licence and a check on convictions, forms part of that determination, as dictated in the Local Government (Miscellaneous Provisions) Act.

TB further advised that there would be consultation with other agencies regarding a switch to annual licences. TB advised that only one other Council grants licences for a three year period. TB advised that this would be looked into as a matter of public safety.

TB advised that she was looking into introducing a statutory declaration, a legal document and on which, the Council could take action if a false statement was made. TB advised that this would not replace the CRB as a CRB would still be required every 3 years.

JB enquired as to when the medical would be required and TB advised that this would still be required every 3 years.

DR enquired as to the fee for an annual licence and TB advised that she would look into the cost. TB advised that it would generate more administration and would cost more, but emphasised that the costs would need to be looked at. TB advised that she was hopeful that the unit and the trade could work together on this.

DR enquired whether there were any declared convictions which would threaten the respective licence.

TB advised that the reported convictions were either too old or too minor to have an effect on the licence. TB further advised that a DVLA check may need to be introduced and cited an example of an applicant producing two differing drivers licences in an effort to avoid disclosing the correct number of points on the licence.

GB advised that he thought an annual licence was a good idea but that it would come down to the cost of it. TB advised that a realistic cost which does not impose on the Council would have to be considered.

SB provided clarification on the reasonable causes for suspending or revoking a licence and TB provided GB with the wording in relation to section 59(1) of the Local Government (Miscellaneous Provisions) Act. SB added section 61 to this document.

Resolved: That the views of the association members be brought to the next meeting of the liaison group

Relevant extract of: Minutes of the Taxi Trade meeting held on 4th September 2007 at 10am at the Council Chamber, Hardman's Mill

1. Annual Driver licences

TB advised that this matter was currently being investigated and enquired as to what the trade think of the matter.

JB advised that the trade were happy with it provided that the price was acceptable. JB advised that the price is the only concern.

DL advised that his members are now happy with it but the cost would be a determining factor.

A short discussion on fees and licensing unit costs took place. RB sought clarification that they would be made aware of the fee prior to the change taking place. This was confirmed to the group. DD clarified that the overall cost would be the bottom line in determining the trade's opinion.

Resolved: The licensing unit will return with a proposed fee once the figures have been calculated

2. Statutory Declaration

A short discussion on the recent unreported convictions and public safety matters took place. TB handed to the group, a copy of the statutory declaration which would be signed in the presence of a solicitor. This statutory declaration serves the purpose of notifying whether an applicant has received any convictions. TB advised that the cost of this would be no more than £10 with the going rate being between £4 and £6. TB advised that this would be brought in with an annual licence.

DD advised that the purpose of the declaration is that an applicant can be prosecuted if a false declaration is made. TB stressed that this has to be done in the interest of public safety. A discussion on the costs took place.

Resolved: That the relevant facts and figures will be provided and will then be taken back to members for consideration