

Subject:	To consider the introduction of a three year hackney carriage and private hire driver's licence.	Status:	For Publication
Report to:	Licensing Committee	Date:	28 th February 2012
Report of:	Director of Business	Portfolio Holder:	Legal Services
Key Decision:	<input type="checkbox"/> Forward Plan <input type="checkbox"/>	General Exception	<input type="checkbox"/> Special Urgency <input type="checkbox"/>
Community Impact Assessment:	Required: No	Attached:	No
Biodiversity Impact Assessment	Required: No	Attached:	No
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1.	RECOMMENDATION(S)
1.1	That the duration of hackney carriage and private hire driver's licences remain at 12 months. Should elected members seek to explore the issue of such licences for 3 years, a community impact assessment should be carried out and the matter brought back to licensing committee for further consideration.

2. PURPOSE OF REPORT

- 2.1 Rossendale Taxi Association has requested elected members consider that hackney and private hire driver's licences are issued for a three year period instead of the current one year. This report sets out the history and the issues involved. To date, no written representations have been received from the Association setting out their arguments therefore, certain presumptions have been made.

3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following corporate priorities:
- **A clean and green Rossendale** – creating a better environment for all.
 - **A healthy and successful Rossendale** – supporting vibrant communities and a strong economy.
 - **Responsive and value for money local services** – responding to and meeting the different needs of customers and improving the cost effectiveness of services.

4. RISK ASSESSMENT IMPLICATIONS

- 4.1 All the issues raised and the recommendation in this report involve risk considerations as set out below:
- A three year hackney carriage and private hire drivers licence would enable drivers to continue to be licensed by this Authority for a long period of time whilst having motoring or criminal convictions which, had we been made aware of, would have rendered them not a 'fit and proper' person to be a driver.

5. BACKGROUND AND OPTIONS

- 5.1 At an Extraordinary meeting of the Council in January 2008, Rossendale Borough Council moved away from the issue of a hackney carriage or private hire driver's licence for a period of 3 years to that of a one year licence. This was introduced on 1st April 2008.

- 5.2 There were a number of reasons for that decision. In April, 2007 a random check of 25 DVLA records in respect of our drivers had shown that 7 drivers had convictions within the previous 3 years. That figure equated to some 28% of the sample selection. There was also a convictions amnesty conducted at the same time. The results of these checks and the amnesty are appended at [Appendix A](#). The committee determined that a driver not subjected to a check of criminal and motoring convictions for three years was open to abuse and placed the safety of the public at risk.
- 5.3 The current requirements for renewal of a driver's licence is that the applicant produces his DVLA driving licence, together with a Statutory Declaration detailing his current or pending criminal convictions each time that he renews his (annual) licence. In addition, every three years he also produces an enhanced criminal records disclosure. The combined effect of this process is that there is an effective annual check of motoring convictions, a declaration annually that the applicant has or has not received a more serious conviction by the courts, which can result in a prosecution if the information is incorrect and a check every three years on the veracity of those declarations.
- 5.4 The system is clearly not foolproof insofar as the applicant may lie on the statutory declaration about serious convictions or he may obtain a motoring conviction just after the renewal of the licence, which we would not be aware until the next renewal of the licence. However, there is a limit to the frequency of checks that can be done.
- 5.5 Best Practice guidelines were re-published by the Department of Transport in February 2010. In respect of the duration of driving licences they say:
- *It is obviously important for safety reasons that drivers should be licensed. But it is not necessarily good practice to require licences to be renewed annually. That can impose an undue burden on drivers and licensing authorities alike. Three years is the legal maximum period and is in general the best approach. One argument against 3-year licences has been that a criminal offence may be committed, and not notified, during the duration of the licence. But this can of course also be the case during the duration of a shorter licence. In relation to this, authorities will wish to note that the Home Office in April 2006 issued revised guidance for police forces on the Notifiable Occupations Scheme.*
 - *However, an annual licence may be preferred by some drivers. That may be because they have plans to move to a different job or a different area, or because they cannot easily pay the fee for a three-year licence, if it is larger than the fee for an annual one. So it can be good practice to offer drivers the choice of an annual licence or a three-year licence.*
- 5.6 The actual process of renewing a driver's licence takes up approximately one hour of officer time with additional time spent on the general administration of the licence system. It is true that there would be a significant reduction in officer time if we were to issue licences for three years.
- 5.7 It should also be noted that Rossendale currently has a situation where a large number of applications are being processed from people who reside in Oldham, Ashton under Lyne and Manchester, as well as enquiries from Wolverhampton, High Wycombe, Walsall and Birmingham. The potential effect of an extra several hundred licensed hackney drivers and vehicles lawfully using the vehicles for private hire journeys in areas remote from Rossendale

will place significant costs and problems on enforcement . For example, a driver residing and working in Birmingham will be able to be without any form of checks or enforcement for 12 months or perhaps 3 years and then simply not renew his driver's licence should anything untoward have occurred during that period.

- 5.8 Over the past two years, a total of 9 drivers have appeared before the Licensing Committee in respect of either failing to declare convictions until they have come to renew their licence or the Unit has received information from other sources about them. Of those, the Committee has revoked three licences.
- 5.9. Current fees for both a hackney carriage and private hire driver's licence are £120 for the initial grant and £85 renewal fee. These figures do not include other costs which are not payable to the Council such as a statutory declaration or a CRB. Section 53(2) of the Local Government (Miscellaneous Provisions) Act, 1976 provides that a Council may recover from the grant of a driver's licence, such fees as they consider reasonable to recover the cost of issue and administration. This section is narrow in what can be costed into the driver's licence and has the effect of placing all the costs of enforcement, stands, vehicle inspections, administrative and other costs associated with the control and supervision of licensed vehicles directly on to the licence of the vehicle or private hire operator.
- 5.10 The view of the Public Protection Office is that the public of Rossendale would be best served by maintaining the annual licence system, which picks up convictions in the minimum practical time period.

COMMENTS FROM STATUTORY OFFICERS:

6. SECTION 151 OFFICER

- 6.1 There are no specific financial implications

7. MONITORING OFFICER

- 7.1 The Council must make a decision based on all relevant information and following consideration of all relevant Council policies.

8. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)

- 8.1 There are no specific human resources implications.

9. CONSULTATION CARRIED OUT

- 9.1 None

10. CONCLUSION

- 10.1 The rationale behind a licensing regime is to provide a service to the public that is accessible and safe and seen to be so. In issuing licences in respect of hackney carriages and private hire vehicles public safety is paramount and the regime is intended to prevent direct danger to the passenger from the driver of the vehicle and, perhaps slightly less danger to the passengers from the vehicle itself or the manner in which it is driven. Convictions, whether motoring offences or offences of dishonesty, assault, drug misuse or the like, bring into question whether a driver is 'a fit and proper person' to be transporting the public. In that respect those that are not fit should swiftly have their licences revoked and to extend the licence period to 3 years without checks on their convictions would pose a substantial increase in risk to the public. The significant reduction in the workload of the public protection

unit and the reduction in licence fees that would result in a move to three year licences does not outweigh this.

Background Papers	
Document	Place of Inspection
Policy statement on Guidelines to Convictions	<i>Public Protection Unit</i>

Appendices	
Document	Appendix Number
Convictions amnesty & random DVLA checks results from 2007	<i>Appendix A</i>

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.