

ADMINISTRATION COMMITTEE

Monday 23 November 2015

DEREGULATION ACT 2015

Report of the Head of Legal and Democratic Services

Recommendations

It is recommended that:

- (1) **The Committee approve the proposed five year Private Hire Operator fee of £365 detailed in the report with an implementation date of 4 January 2016 and the Committee authorise the Head of Legal and Democratic Services to carry out the necessary consultation procedure;**
 - (2) **If objections are received within 28 days of the publication of the notice of the proposed changes to the fees, the matter will come back to the next Administration Committee meeting on 1 February 2016, so that objections can be considered and set a further date, not later than two months after the first specified date on which the proposed five year fee will come into force with or without modification; and**
 - (3) **Members note (a) the introduction of a three year driver and five year private hire operator licence resulting from the Deregulation Act 2015; and (b) the new rules in respect of sub-contracting between Private Hire Operators licensed in different authorities.**
-

Summary

This report is to set the fee for a five year Private Hire Operator licence, and to update members on the changes introduced by s.10 and s.11 of the Deregulation Act, in respect of duration of licences for Private Hire Operator and Private Hire and Hackney Carriage driver licences. .

Statutory Powers

Deregulation Act 2015

Local Government (Miscellaneous Provisions) Act 1976

Introduction

1. The purpose of the report is to recommend a new licence fee for a five year Private Hire Operators licence to reflect the change in the duration of a Private Hire Operator licence following the coming into force of the Deregulation Act 2015 on the 1 October 2015.
2. The Deregulation Act 2015 also introduced a number of changes, including three significant revisions to the current taxi licensing regime these are:
 - S.10 has introduced a three year Hackney Carriage and Private Hire vehicle drivers licence unless a shorter period “is appropriate in the circumstances of the case”
 - S.10(3) has introduced a five year Private Hire vehicle Operator licence unless a shorter period “is appropriate in the circumstances of the case”
 - S.11 permits sub-contracting of private hire bookings between Private Hire Operators licenced in different licensing authority areas.

These changes were recently discussed at the Licensed Transport Forum on the 20 October 2015, where Hackney Carriage and Private Hire vehicle representatives were informed that a report was in preparation for a future Administration Committee meeting.

Five Year Operator Licence Fees

3. It is proposed that the Administration Committee approve a Private Hire Operator’s licence fee of £365 for a five year licence. Currently private hire vehicle operator’s licences are only issued for a twelve month period at a cost of £165.
4. The fee of £365 is based on the administrative section of the fee not being included in years two to five of the licence, but does include the costs for compliance checks associated with the sub-contracted work and to ensure compliance with the Private Hire Operator conditions.
5. The proposed fee, if approved by Members, will be subject to public consultation in accordance with Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 and any representations will be presented back to the Administration Committee prior to implementation.

Sub-Contracting

6. From the 1 October 2015, s.11 of the Deregulation Act removed the restriction of cross bordering and provides that a licensed Private Hire Operator will be able to sub-contract a booking to a licensed Private Hire Operator in another local authority, including London and Scotland.
7. Sub-contracted work must be passed between licensed operators and cannot be passed directly to a driver licensed with a different authority; therefore it will remain illegal for a private hire operator who is licensed in Area A to sub-contract a booking directly to a driver or vehicle licensed in Area B.

8. The private hire operator is required to record the details in his booking records of the Private Hire Operator that the booking was passed onto.
9. The first Private Hire Operator commits an offence if he knows that the second private hire operator is going to use an unlicensed vehicle or driver to fulfil the sub-contracted booking.

Proposed Fees for Private Hire Operator

10. The table below shows the existing fees alongside the proposed new five year fee.

	Existing Fee For 1 year	Proposed 5 Year Fee
PH Operator Licence	£165	£365

Three Year Private Hire/Hackney Carriage Driver Licences

11. The Deregulation Act 2015 has introduced a three year licence for both Hackney Carriage and Private Hire drivers from 1 October 2015. The Council currently offers a three year driver's licence at a fee of £182.00.
12. A licence may be granted for a shorter period where there is a justifiable reason, but this must be looked at on a case by case basis and not be a blanket policy, the Act states **“or for such lesser period, specified in the licence, as the district council thinks appropriate in the circumstances of the case”** examples of these circumstances could be:
 - The drivers three yearly Disclosure and Barring Service (DBS) criminal records check would be out of sync and needs bringing into line with the three year licence
 - The applicant is due to retire
 - their right to work visa will expire
 - The driver is over 65 and having yearly medical checks
 - Financial hardship

The above are examples of what the Council may wish to take into account when a specific request is made by an applicant in respect of the grant of a licence for a Private Hire or Hackney Carriage drivers licence.

Legal Implications

13. The proposed fees will be subject to public consultation in accordance with Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 including the notice being published in a local newspaper, namely Hampshire Independent giving at least 28 days for representations to be made. Any representations will be presented back to the Administration Committee for consideration prior to implementation on 4 January 2016 or alternatively can be delegated back to the Head of Legal and Democratic Services to consider the objections and set a further date, not later than two months after the first specified date on which the variation will come into force with or without modification.
14. The Council must set the fees for these licences on the basis that it only recovers costs which it is entitled to recover. Case law has established that when the Council makes a surplus in respect of licence fees it should give account for that the next time that the fees are set; and if it incurs a deficit it may also take that into account.

Financial Implications

15. The cost of the consultation for the advertisement costs will be approximately £225 and will be met by existing budgets. There are currently 46 private hire operators licensed by the Council. The five year fee for each operator's licence will mean a small reduction of income of around £4,232 a year due to the reduced administration required which has been reflected in the proposed fees. This loss of income will be contained within the Licensing Budget.

Risk Assessment

If the fee is set too high the Council could be challenged in the Courts.

Equality and Diversity Implications

The Equality Act is not relevant to the decision in this report as the decision does not relate to eliminating discrimination, advancing equality of opportunity, or fostering good relations between different people. An Equality Impact Assessment has not been carried out.

Conclusion

That the Administration Committee approves the Private Hire Operator five year licence fee of £365 outlined in this Report with an implementation date of 4 January 2016, and authorise the Head of Legal and Democratic Services to carry out the necessary public notice procedure.

If objections are received within 28 days of the publication of the notice of the proposed changes to the fees, the matter must come back before the next Administration Committee meeting on the 1 February 2016 to allow for any objections to be considered.

That following the consideration of any objections, the necessary amendments to the policy and conditions is made to the taxi handbook, and that Members note the change in law in respect of sub-contracting for Private Hire Operators.

NICKI MOORHOUSE
LAWYER (LITIGATION)

Date: 22 October 2015
Contact Officer: Nicki Moorhouse
Tel No: 023 8068 8125
e-mail: nicki.moorhouse@eastleigh.gov.uk
Appendices Attached: *0
*Report No *X

LOCAL GOVERNMENT ACT 1972 - SECTION 100D

The following is a list of documents which disclose facts or matters on which this report or an important part of it is based and have been relied upon to a material extent in the preparation of this report. This list does not include any published works or documents which would disclose exempt or confidential information.

* Deregulation Act 2015.