

Licensing and Registration Committee

18 January 2017

Report of Corporate Director (Operational Services)

A.3 Report to advise the Licensing and Registration Committee on the effects of Immigration Act 2016 on Taxi and Private Hire Licensing and recommending changes to the Council's Hackney Carriage and Private Hire Driver, Vehicle and Operator application forms as a result of the new Immigration Act.

(Report prepared by Simon Harvey)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

The Licensing and Registration Committee is asked to agree an amendment to the format of the Council's Hackney Carriage and Private Hire Driver, Operator and Vehicle application forms in order that our driver and operator application forms are compliant with the requirements of the Immigration Act 2016 and also that all of our taxi and private hire application forms are updated to include all necessary contact details to improve the effectiveness and efficiency of the customer service provided by the Licensing Team and also to provide necessary and robust information as required by the National Fraud Initiative.

EXECUTIVE SUMMARY

- The Immigration Act 2016 which went live as from the 1 December 2016 requires Councils to make positive checks that all applicants for both new and renewed hackney carriage and private hire driver and operator licences submitting applications after the 1 December 2016 have the right to work in the United Kingdom.
- As a result of these new requirements the Licensing team has reviewed its hackney carriage and private hire driver, vehicle and operator application forms and amended the driver and operator forms specifically in line with the new Immigration Act 2016 and has also taken the opportunity to improve all of our hackney carriage and private hire forms both in terms of their customer service and customer contact profile and also in regards to the National Fraud Initiative.

RECOMMENDATION(S)

It is recommended that the Licensing and Registration Committee agree the following actions:

- a) Note the requirements that the Immigration Act 2016 places on the taxi and private hire trades and the Council and also agree the content and format of the proposed new hackney carriage and private hire driver, operator and vehicle application forms attached to this report as Appendices 1, 2 and 3.**

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

Changing the format of the current Hackney Carriage and Private Hire Driver, Vehicle and Operator application forms will help support the Council's Corporate Plan 2016 – 2020 by assisting and enhancing the opportunities for the Licensing team to engage and communicate more easily with the taxi and private hire community and also deliver services and information to taxi businesses in a more efficient, effective and environmentally friendly way by electronic means.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

Risk

There is a financial and reputational risk to the Council of any successful legal challenge made against its policies or decisions in relation to the grant of hackney carriage/private hire driver, vehicle or operators licences. In the event of an appeal being allowed by these Courts, the costs of any such hearing or challenge could be awarded against the Council.

LEGAL

Any decision made by the Licensing and Registration Committee in regards to matters of grant, renewal, suspension or revocations of licences and attachment of policies or conditions to individual hackney carriage and private hire licences can be appealed to the Magistrates' Court and from there to the Crown Court.

In the event of the appeal being allowed by these Courts, the costs of any such hearing could be awarded against the Council.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Consultation/Public Engagement.

CRIME AND DISORDER

Under the terms of the Immigration Act 2016 a person commits an offence if they try and secure employment in the United Kingdom if they do not hold the right to work in the UK either on a permanent or temporary basis. The Council is required under the Immigration Act 2016 to carry out reasonable and positive vetting of applicants for hackney carriage and private hire driver and operator licences to ensure and confirm that they have the right to work in the UK either on a permanent or temporary basis.

EQUALITY AND DIVERSITY

The changes to the Council's hackney carriage and private hire driver, vehicle and operator application forms will apply to all new applicants and existing licence holders. The Council also has no option other than to implement and abide by the requirements of the new Immigration Act 2016 in regards to its hackney carriage and private hire driver and operator licence applications.

AREA/WARDS AFFECTED

All

CONSULTATION

Not applicable in these circumstances. The Council and all applicants for hackney carriage and private hire driver and operator licences have no option other than to comply with the requirements of the Immigration Act 2016. It is also best practice that the Council's hackney carriage and private hire application forms assist the National Fraud Initiative which is in place to protect public funds from fraud.

PART 3 – SUPPORTING INFORMATION**BACKGROUND**

The Council's current hackney carriage and private hire driver and operator application forms for new applicants and renewals of existing licences are no longer fit for purpose following the introduction of the Immigration Act 2016 which went live as from the 1 December 2016.

This means that all new applicants and those renewing existing hackney carriage and private hire driver and operator licences after the 1 December are required to provide confirmation that they have the right to work either permanently or temporarily in the United Kingdom.

The Council has a legal responsibility under the Immigration Act 2016 to ensure that it does not grant a licence to a person who does not have the right to work in the UK and must do so by verifying the applicant's identity and their right to work in the UK. The Council also has a responsibility to communicate and check with the Home Office in regards to the immigration status of any applicant or documents that they have presented in support of their driver licence application.

Applicants for hackney carriage and private hire driver and operator licences are also legally obliged to comply with the requirements of the Immigration Act 2016 when applying for these licences and will not be granted a licence unless they can prove compliance with the Immigration Act 2016. This requirement applies to all new applications and renewals and to all applicants for driver and operator licences. Neither the Council nor the applicant has any discretion to waive this requirement.

The requirement to amend our hackney carriage and private hire driver and operator application forms in light of the Immigration Act 2016 has given the Licensing team an opportunity to review all of the information that we would also want to include on our driver, operator and vehicle application forms such as comprehensive contact details for an applicant in order that we can provide better and faster communication to them and provide a more efficient and effective service by electronic service delivery for example. It has also enabled us to update our driver, vehicle and operator application forms to ensure that they are entirely robust in supporting the National Fraud Initiative which is in place to protect public funds.

In accordance with Section 57 of the Local Government (Miscellaneous Provisions) Act 1976 it is in order for a Council to request information that it considers reasonably necessary to enable a licence to be granted and whether conditions should be attached to a licence. The relevant part of the Act is as follows:

57 Power to require applicants to submit information.

(1)A district council may require any applicant for a licence under the Act of 1847 or under this Part of this Act to submit to them such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence.

(2)Without prejudice to the generality of the foregoing subsection—

(a)a district council may require an applicant for a driver’s licence in respect of a hackney carriage or a private hire vehicle—

(i)to produce a certificate signed by a registered medical practitioner to the effect that he is physically fit to be the driver of a hackney carriage or a private hire vehicle; and

(ii)whether or not such a certificate has been produced, to submit to examination by a registered medical practitioner selected by the district council as to his physical fitness to be the driver of a hackney carriage or a private hire vehicle;

CURRENT POSITION

The proposed new Hackney carriage and private hire driver, operator and vehicle application forms are attached to this report as **APPENDIX 1**, **APPENDIX 2** and **APPENDIX 3** respectively.

It is recommended to the Licensing and Registration Committee that they adopt these new forms for use with immediate effect in regards to new and renewal applications for hackney carriage and private hire driver and operator licences and also vehicle licence applications.

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

APPENDIX 1 – Hackney Carriage and Private Hire Driver Application Form

APPENDIX 2 - Private Hire Operator Application Form

APPENDIX 3 – Hackney Carriage and Private Hire Vehicle Application Form