



**Lewes District Council**

**Licensing Committee**

**15 September 2015**

**To all Members of the Licensing Committee**

**Supplementary Agenda**

**1 Deregulation Act 2015: Approval of temporary Licence Fee (PH Operators)**

To consider the Report of the Director of Service Delivery

(Report No 115/2015 Herewith)

The Chair has agreed, in accordance with Section 100B(4)(b) of the Local Government Act 1972 that the above Report be considered as a matter of urgency in order that Cabinet can take its decisions based on the most recent information which is available.

For further information about the items appearing on this Agenda please contact Ruby Brittle, Southover House, Southover Road, Lewes, BN7 1AB

Distribution: Councillors S Adeniji, W Botting, B Bovington, P Gander, J Harrison-Hicks, D Neave, M Chartier, S Gauntlett, S Osborne, S Murray

**Agenda Item No:** 6 **Report No:** 115/2015  
**Report Title:** Deregulation Act 2015: Approval of temporary Licence Fee (PH Operators)  
**Report To:** Licensing Committee **Date:** 15<sup>th</sup> September 2015  
**Report By:** Director of Service Delivery  
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### **Purpose of Report:**

The purpose of this report is to make Members aware of the changes implemented by the Deregulation Act 2015, relating to the licensing of hackney carriage and private hire drivers and the operation of private hire operators.

To approve the new fee for a five year Private Hire Operators Licence to come into force on 1<sup>st</sup> October 2015.

### **Officers' Recommendation:**

That the Licensing Committee approves the recommended fee for a five year Operator's Licence in order to recover its reasonable administrative costs, until such time as a full review of the licensing fees can be made.

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### **1. Reasons for Recommendations:**

- 1.1 The Council could find itself open to legal challenge if a five year operator licence fee is not implemented by the 1st October 2015.

### **2. Background:**

- 2.1 Lewes District Council is responsible for issuing licences to the drivers of hackney carriage and private hire vehicles, and the operators of private hire businesses.
- 2.2 The Deregulation Act 2015 amends The Local Government (Miscellaneous Provisions) Act 1976 to alter the length of time a licence must be issued for, together with the method of operation of the holders of a private hire operators licence.

- 2.3 The Deregulation Act 2015 contains two sections, section 10 & 11 relates to the hackney carriage and private hire industry; these sections take effect on 1<sup>st</sup> October 2015.
- 2.4 Section 10 states that driver licences for hackney carriage and private hire vehicles must be issued for a period of three years, unless there is reason for issuing a licence for a shorter period as may be thought appropriate in the circumstances of the case. Lewes District Council currently issues driver licences for a period of one and three years and this alteration of the legislation means that this period would be extended to three years only, unless it was deemed appropriate to issue a licence for a shorter period.
- 2.5 Section 10 also states the issuing of an operators licence should be changed so that they are issued with a standard duration of five years, or a lesser period depending on the circumstances of an individual case. Lewes District Council currently issues operator licences with a duration period of one year
- 2.6 Section 11 of the Act makes provision for the holder of an operators' licence who has accepted a booking in one district, to pass that booking to another operator to fulfil whether in the same district or not, provided that the booking is accepted in accordance with legislative requirements in the district the second operator is authorised to trade in.
- 2.7 The implications of this change are potentially far-reaching for customers and Licensing Authorities. Vehicles carrying out contracts in an area for which they are not licensed may not be subject to the same powers of enforcement that local vehicles are, and investigation of complaints against a subcontracted vehicle would be difficult for this reason because powers of enforcement do not extend to vehicles or drivers licensed by other Authorities.
- 2.8 The Local Authority is still awaiting further guidance from Central Government.

### **3. Private Hire Operators:**

- 3.1 The Deregulation Act 2015 requires Local Authorities to issue a five year operators licence, which Lewes District Council does not currently offer.
- 3.2 Lewes District Council licences 10 private hire operators, and of those, three will require renewal before April 2016.
- 3.3 Our current one year operator licence fee is set at £77, with the use of two private hire vehicles with an additional cost of £25 for each vehicle over that entitlement.

### **4. Proposed five year licence fee:**

- 4.1 The three operators due for renewal before April 2016 will be given the opportunity to have a one year licence. However from the 1<sup>st</sup> October 2015 they have the right to apply for a five year licence and the Council will need to have a fee in place.

- 4.2 Following initial discussions with our Finance Department we are proposing the following fee for consideration by the Licensing Committee.
- 4.2 **Five year operators licence = £300** with the use of two vehicles, and the additional cost of £100 for each vehicle over that entitlement.
- 4.3 The proposed fee above will enable the council to recover its reasonable costs in processing, determining and ensuring compliance of the licence.
- 4.4 Officers are currently reviewing the fee levels for all hackney carriage and private hire application/ licenses. There are further considerations that need to be applied to the fee review so it has been proposed to defer the decision to review all the fees until later in the year to enable more work to be completed on costs. The current fees for all other application types should remain in effect until such time as the review is completed and new fees are approved.

## **5. Options**

- 5.1 The Licensing Committee have the following options:
- To approve the proposed fee as recommended in this report
  - To refuse the fee, which may lead to legal challenge.

### **Financial Implications:**

The proposed fee will enable the council to meet it's current budget for 2015/2016.

At the end of 2015/16 financial year any deficit will be recouped when adjusting for 2016/17 fees to recover those costs; likewise any surplus will also be offset by adjusting the licence fees.

### **Legal Implications:**

Until 2013, all licensing fees have been set by Cabinet. Recent legal advice however has recommended that in future, the setting of all licensing fees, including taxi fares should be a function of the Licensing Committee. This is because the Local Authority (Functions & Responsibilities((England) Regulations 2000 state that the function of determining the terms of any approval, consent, licence, permission or registration or of imposing any condition, limitation or other restriction on such licenses etc. should not be a function of the Executive (Cabinet). The responsibility for fee and fare setting has always been somewhat of a grey area.

Whilst the regulations make it clear that determining the terms and conditions of any licence is the function of a Licensing Committee (unless delegated to an officer), the responsibility for setting the level of fees and fares was less clear. However expert opinion in the field is now unambiguous and it is clear that the setting of licence fees/ fares should also be the function of the Licensing Committee and not the Executive.

The Council can set its own fees for the regimes under the provisions of the legislation that prescribe those regimes. The fee must be reasonable and cover the Council's costs in the administration of those application types and further costs to

ensure compliance. These fees are covered by the European Union Services Directive. Regulation 18 of the Provision of Services Regulations 2009 which implements the EU Services Directive into UK law requires that fees charged in relating to authorisations must be proportionate to the effective cost of the process. The proposed fees must recover the council's costs in relation to the licensing process and cannot be used as an economic deterrent or to raise funds. The fees as proposed should enable to Council to recover its reasonable costs.

**Sustainability Implications:**

I have completed the Sustainability Implications Questionnaire and there are no significant effects as a result of this recommendation.

**Background Papers:**

None

**Appendices:**

None