

Committee: Licensing and Environmental Health

Agenda Item

Date: 9 July 2014

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Title: DEREGULATION BILL 2014

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Item for information

Summary

1. This report is to inform members of pending changes in legislation relating to the work of this committee.

Recommendations

2. That members note this report.

Financial Implications

3. As set out in the body of this report.

Background Papers

4. None.

Impact

- 5.

Communication/Consultation	None.
Community Safety	None.
Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	None.
Sustainability	None.
Ward-specific impacts	None.
Workforce/Workplace	Changes in the duration of drivers and operators' licences will impact upon the requirements for staff.

Situation

6. The government is promoting the Deregulation Bill 2014 to make provision for the reduction of burdens resulting from legislation for businesses or other organisations or for individuals and make provision about the exercise of regulatory functions. Some of the proposals will impact upon the work of this Committee. The Bill has completed all of its stages in the House of Commons and the first reading in the House of Lords was on the 24 June 2014.
7. With regard to the private hire trade the bill amends the Local Government (Miscellaneous Provisions) Act 1976 to permit persons not holding a private hire driver's licence to drive licensed vehicles when they are not being used for hire or are not immediately available to an operator to carry out a booking for hire. Where a private hire vehicle is seen carrying passengers, there will be a presumption that the passengers are hiring the vehicle. In any proceedings the defendant would need to establish that they were not fare-paying passengers. However, local authority officers do not have power to stop private hire vehicles and enforcement will clearly be an issue.
8. The 1976 Act provides that driver licences for hackney carriages and private hire vehicles should be issued for three years or such lesser period as the district council may specify in the licence. Similarly for operators the Act provides for licences to be issued for five years or such lesser period specified in the licence. This council has always licensed drivers and operators on an annual basis. The reason for this with regard to drivers is that the council wishes to monitor drivers licences to ensure that all motoring convictions have been properly reported. Experience shows that a significant percentage of drivers who receive endorsements on their licences fail to report these until the next renewal of the licence. This may lead to unsuitable people driving as private hire/hackney carriage drivers. For operators the rationale was that an up to date register of operators is desirable to assist those considering entering the trade in the district. If licences are issued for five years there is no obligation upon an operator to notify the council that he or she has ceased trading and the register may therefore become out of date. The proposed revisions to the legislation will prevent district council from having blanket policies with regard to the duration of licences. Once the new legislation comes into effect, then licences can only be issued for shorter periods than three and five years if the circumstances of a particular case require it.
9. This will have a significant impact upon the business of the Council. It is not yet known when the legislation will become effective. It is however, a reasonable assumption that it will come into effect at the start of a financial year to enable authorities to budget accordingly. During the first financial year in which the new legislation is applicable it will be very much business as usual for the licensing team as licences will expire as usual during the course of the year. However, new licences issued will be for three and five years for drivers and operators respectively. Whilst a number of new applications may be anticipated in financial years two and three after the issue of three year licences, it is unlikely that these will be substantial in number. The size of the licensing team has been based upon annual renewal. Members will be aware

that with the retirement of one of the licensing officers, there is a vacancy in the team. It is intended that this vacancy shall be filled on a fixed term contract for two years and that thereafter an additional member of staff would be employed on a fixed term contract at three year intervals to cope with the volume of work generated by three-year renewals.

10. It is not considered appropriate that three years should be allowed to lapse before drivers' licences are checked. I will therefore be suggesting when the legislation comes into effect that there should be a condition imposed on drivers' licences that they should produce their licence for inspection annually. I will also be proposing that I should have delegated authority to suspend the driver's licence of any driver who fails to produce his licence immediately in the interest to public safety until the licence is due to expire with power to remove the suspension once the licence has been produced providing that I am satisfied the driver remains a fit and proper person.
11. With regard to medicals and DBS checks, these are carried out at the time of first grant of a licence and thereafter at three year intervals. There will be a number of drivers who had a medical and DBS check either two or three years before they are granted their first three-year licence. It would be unreasonable for these drivers to be required to incur the expense of a further medical/DBS check on the grant of their first three-year licence. I will therefore be suggesting when the legislation comes into effect that the conditions of licence should be varied to provide that drivers will produce a medical and a DBS check at 3-year intervals with delegated power to me to suspend the licence with immediate effect in the interest of public safety in the event that the driver fails to produce a medical or DBS check. The suspension should last until the licence is due to expire with the delegated power for me to lift the suspension if a medical and/or DBS check is produced and I am satisfied that the driver is a fit and proper person.
12. The third proposed amendment to the 1976 Act will permit sub-contracting by operators to operators licensed in other parts of the country. This is unfortunate as different authorities have different licensing standards. The draft Bill relating to the private hire and hackney carriage trades issued by the Law Commission makes provision for national standards for the private hire trade. In the absence of such standards the ability to sub-contract to operators out of district means that passengers using Uttlesford licensed operators may be conveyed in vehicles or by drivers who do not meet Uttlesford standards. However, there is nothing which can be done with regard to this.
13. The fact that the government has decided to press ahead with these amendments prior to consideration of the Law Commission's draft Bill must cast doubt over the government's commitment for a wider reaching review of the law relating to the hackney carriage and private hire trades. The Select Committee on Transport at the start of this Parliament recommended that the government should carry out a wholesale review of the law in this regard without reference to the Law Commission and that it wished to see legislation on the statute book before the end of this parliament. Having referred the

matter to the Law Commission the government has already indicated that it does not intend promoting a bill before the election.

14. The Bill also proposes certain amendments to the law relating to alcohol and entertainment licensing. With effect from 2016 the maximum number of temporary event notices which may be served in respect of particular premises is increased to 15.
15. Although the government has stepped away from abolishing the requirement for personal licences, the requirement for these to be renewed at 10 year intervals has been removed. The council has never budgeted for income from renewals (as the first renewals were not due until 2015/16) and will not now do so. There is therefore no loss of budgeted income to the council.
16. The prohibition of the sale of liqueur confectionery to children is to be repealed.
17. With regard to late night refreshment, the licensing authority will have power to exempt premises from the requirements for a premises licence either by reference to an area, to a type of premises, or by reference to times when a licence would not be required. Regulations will limit the description of premises to which the exemption can apply.
18. The Licensing Act 2003 requires licence holders to report the loss or theft of licensing documents to the Police. This requirement is to be abolished.
19. Community premises are to be exempt from requiring premises licences for the display of films subject to certain conditions including that the entertainment is not provided with a view to profit, that the audience does not exceed 500 persons, that the entertainment takes place between 8 a.m. and 11 p.m. and that the film has appropriate classification and is screened in accordance with that classification.

Risk Analysis

20. There are no risks arising from this report. The risks will arise from the enactment of the legislation and will be addressed at that time.