



Licensing and Regulatory Committee

9 December 2015

Agenda Item No.

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| Title | An explanation of the changes implemented by the Deregulation Act 2015, its impact on license fees, licence holders and the licence regime. |
| For further information about this report please contact | Marianne Rolfe, Regulatory Manager Tel: 01926 456320 Email: marianne.rolfe@warwickdc.gov.uk |
| Wards of the District directly affected | |
| Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006? | No |
| Date and meeting when issue was last considered and relevant minute number | |
| Background Papers | |

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|--|--------------------------------|
| Contrary to the policy framework: | No |
| Contrary to the budgetary framework: | No |
| Key Decision? | No |
| Included within the Forward Plan? (If yes include reference number) | Yes |
| Equality Impact Assessment Undertaken | Yes/No (If No state why below) |

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|--|-------------|-----------------------------|
| Officer/Councillor Approval | | |
| Officer Approval | Date | Name |
| Chief Executive/Deputy Chief Executive | | |
| Head of Service | 9.11.15 | Richard Hall |
| CMT | | |
| Section 151 Officer | | |
| Monitoring Officer | | |
| Finance | | |
| Portfolio Holder(s) | 9.11.15 | Moira Ann Grainger |
| Legal | 9.11.15 | Warwickshire Legal Services |
| Consultation & Community Engagement | | |
| Final Decision? | Yes | |
| Suggested next steps (if not final decision please set out below) | | |

1. **Summary**

- 1.1 To update councillors on the impact of the Deregulation Act 2015 upon licences, licence fees and licence holders.

2. **Recommendation**

- 2.1 That the committee note the changes to the legislation and acknowledge the impact that this has upon the following licences and notices:
- Private Hire Operators Licence,
 - Hackney Carriage Private Hire Drivers Licence,
 - Premises Licences issued under the Licensing Act 2003,
 - Temporary Event Notices
 - Personal Licences
- 2.2 That the committee note the changes to the legislation and acknowledge the impact that this has upon licence fees, upon our licence holders, residents, responsible authorities and other persons.
- 2.3 That the decision to grant a reduced Private Hire Operator or Hackney Carriage Private Hire Drivers licence duration is delegated to the Head of Health and Community Protection in consultation with the Chair of the Licensing and Regulatory Committee or nominated committee representative.

3. **Reasons for the Recommendation**

- 3.1 On 6th April 2015 the Deregulation Act came into force. This implemented a number of changes to the licensing regimes of a number of licence types as described in the report.
- 3.2 This has and will have both positive and negative impacts upon licence holders, residents, responsible authorities and other persons as explained in the report.
- 3.3 Officers have adapted operating procedures in order to accommodate these changes and to lessen the identified potential negative impacts upon licence holders.
- 3.4 The Drivers and Operators Forum have indicated that the majority of the applications from Private Hire Operators will request consideration for a reduced duration of their licence in order to reduce the fee payable. This would result in the requirement for a large increase in applications requiring hearings.
- 3.5 A policy wide reduction in the Private Hire Operators licence duration is not permissible under the legislation. Each application will need to be considered upon its merits.
- 3.6 As the assessment of an application for a licence reduction is in the main to be an administrative process it would be a more efficient and effective use of resources to delegate licence duration reduction decisions to the

Head of service in consultation with the Chair of Licensing and Regulatory committee.

- 3.7 Licence fees for Hackney Carriage and Private Hire matters are set on a cost recovery basis. Therefore the fee set is the cost per application of the delivery and administration of the licensing regime.

4. **Policy Framework**

- 4.1 The relevant licensing policies in place will require or are in the process of being updated in order to include the changes brought in by new legislation.

5. **Impact Assessments**

- 5.1 Currently there is a Licenced Hackney Carriage Private Hire Driver with a reduced duration licence (one year instead of three). This driver has for the last five years considered retiring. He believes that he would be at an economic disadvantage if he paid for a three year licence and did retire within a licenced period.
- 5.2 The Driver and Operators Forum (DOF) have discussed the changes and recognised that the Private Hire Operators licence of a five year duration brings many benefits. They also recognise that a significantly increased fee would need to be applied to allow cost recovery of the licence regime.
- 5.3 The DOF have concerns that that Private Hire Operators would struggle to afford a licence fee required for a five year licence. It is recognised that a large percentage of operators may request a reduced licence period for economic reasons.
- 5.4 Consideration has been given to the payment or collection of licence fees in instalments. However, not collecting a full fee in a single sum would it is believed further increase the cost of a licence as the costs of chasing the licence holders for payment would need to be included in the licence fee.
- 5.5 Officers already spend a significant proportion of time chasing non-payments of fees, incorrect payment amounts and cheques that cannot be honoured, for all licence activities.

6 **Budgetary Framework**

- 6.1 The recommendations of the report will have an impact upon the budgetary framework as the Private Hire Operators will only renew once every five years instead of annually.

7. **Risks**

- 7.1 Private Hire Operators: It is possible that some current licence holders may not renew their licences upon expiry, choosing to either cease trading or operate without a licence in breach of the legislation. It is anticipated that there will be an observed increase above the usual percentage of licence holders who currently do not renew or fail to renew before the

expiry of their licence. Officers will continue to address any failures to renew licences within existing procedures.

- 7.2 Premises Licences under the Licensing Act: Residents, Responsible Authorities or Other Persons who have successfully argued for conditions to be applied to premises licences during application processes or reviews, could be frustrated by the deregulation of regulated entertainment and this may result in an increase in complaints regarding the premises or regarding the service provided by Health and Community Protection.

8. Alternative Option(s) considered

- 8.1 The ability to grant a short duration licence upon application remains with the Licensing and Regulatory Committee.

9. Background

9.1 The Deregulation Act 2015.

- 9.2 The act makes provisions for the reduction in burdens resulting from legislation for business, other organisations or for individuals. It also repealed some legislation that no longer had practical use.

- 9.3 The main changes implemented by the legislation affect;

- The duration of licences for Taxis and Private Hire
- Private Hire Vehicle Subcontracting
- Temporary Event Notices
- Personal Licences
- Deregulation of Entertainment

9.4 Duration of Licences for taxis and private hire.

9.5 Taxi and Private Hire Drivers

- 9.6 The legislation requires a drivers licence to be for a period of three years unless for a lesser period specified in the licence as the district council may think is appropriate.

- 9.7 Warwick District Council Hackney Carriage and Private Hire Drivers Licence are issued for a period of three years. There is only one driver who has a licence issued for one year.

- 9.8 The Driver confirms that the agreement was reached in 2010 when he believed he may retire. However, the driver has continued to be a licenced Hackney Carriage Private Hire Operator with Warwick District Council since that date.

- 9.9 Upon receipt of a renewal application in 2016, the legislative change would require the driver, if considered 'fit and proper' to be granted a licence with three year duration unless a lesser period was otherwise specified by the council upon consideration of his case.

9.10 Operators of Private Hire Vehicles

- 9.11 The legislation has changed to require a Private Hire Operators Licence to have a duration of five years or for a lesser period specified in the licence as the District Council think appropriate in the circumstances of the case.
- 9.12 Currently Warwick District Council Private Hire Operators Licences are issued for the duration of one year. In 2016 those licences will be issued with a duration of 5 years.
- 9.13 All of the current Private Hire Operators Licences expire in June 2016. Therefore the majority of the impact of this legislative change will be evident in April, May and June 2016.
- 9.14 The impact of increasing the licence duration increases the licence fee in order to cover the cost of the licensing regime over that period. To a total cost of £695 for a new application and £639 for a renewing applicant. *Please note that the fees are subject to agreement on the 12th November at full council meeting and advertisement.*
- 9.15 Speaking with the Driver and Operators Forum they would welcome an increased licence duration and recognise that this would result in an increased fee. The DOF have economic concerns about paying for a five year licence fee in one sum.
- 9.16 Following consultation with legal representatives, it has been determined that a policy wide decision to issue a reduced duration licence is not permissible and each case must be considered on its individual merits.
- 9.17 The DOF have indicated that the majority of Private Hire Operators would request a reduction in the duration of the licence in 2016. A large percentage of the Private Hire Operators are owner operators and therefore officers would expect a reduced duration application from between 50-75% of operators (33-50 applications).

9.18 Private Hire Vehicle Subcontracting

- 9.19 The legislation introduces an ability for a Private Hire Operator to subcontract a booking to another Private Hire Operator outside of the licensing boundary from October 2015. This means that a Warwick District Council Licenced Private Hire Operator can take a booking and subcontract the booking to another Private Hire Operator who can be licenced with Warwick District Council or another local authority.
- 9.20 The subcontracting does not require the permission of the person making the booking.
- 9.21 Criminal liabilities for subcontracting have also been created under the legislation. Namely responsibilities for ensuring that the subcontracted operator, vehicle etc. is licenced.

9.22 There are no negative impacts for the licence holder. However we anticipate complaints, queries and concerns from the residents and the general public regarding subcontracting matters.

9.23 Temporary Event Notices

9.24 From January 2016, The Deregulation Act 2015 will increase the number of Temporary Event Notices a premises with a licence issued under the Licensing Act 2003 is allowed from 12 to 15.

9.25 Personal Licences

9.26 The Deregulation Act 2015 removed the expiry date on Personal Licences and as a result created a licence of indefinite duration. This change is applicable to both new and existing licences.

9.27 Prior to this legislation, Personal licences were issued for a period of 10 years meaning that the majority of personal licences were due for renewal this financial year.

9.28 The removal of the expiry date of these licences, removed a forecasted workload for 2015/16 of approximately 1100 renewal applications and the associated income. *(Unable to quantify the lost income as renewal licence fee would have been nationally set rather than locally set. The fee was never calculated/published)*

9.29 The Deregulation of Regulated Entertainment (Licensing Act 2003)

9.30 Appendix A describes the various complex deregulations that have been implemented from 6th April 2015.

9.31 These deregulations have had an impact on the existing licences as all of the conditions on a premises licence relating to the previously regulated entertainment are no longer applicable. This includes any conditions added during a review of the premises licence prior to 6th April 2015 which relate to these activities.

9.32 It is foreseeable that this could have significant impact on some residents surrounding licenced premises, local authority grounds, hospitals and schools. It is reasonably foreseeable that this will be particularly frustrating to any person or Responsible Authority who has already instigated a review process with a specific premises or successfully argued that a condition should be applied to a premises licence.

9.33 In order to (re)implement conditions relating to the previously regulated entertainment on a premises licence, the premises must be 'reviewed' in accordance with the Licensing Act 2003.

Appendix A:

Regulated Entertainment Changes implemented by the Deregulation Act 2015

Live Music

- Live unamplified music has been deregulated between 08:00 to 23:00 on any premises.
- Live amplified music has also been deregulated between 08:00 and 23:00 up to a maximum of 500 people on a premises authorised to sell alcohol for the consumption on the premises.

Recorded Music

- Recorded music has been deregulated between 08:00 and 23:00 on a licensed premises up to a maximum of 500 people. (This does not apply to workplaces)

Plays and Performance of Dance

- Plays and performances of dance to an audience of less than 500 people between 08:00 and 23:00 has been deregulated.

Sporting Events (including Wrestling)

- Between 08:00 and 23:00 indoor sporting events; contests, exhibitions or displays of Greco-Roman or freestyle wrestling, to an audience of less than 1000 people has been deregulated.

Local Authority

- Live and recorded music between 08:00 and 23:00 are deregulated at the non-residential premises of a local authority provided that the audience does not exceed 500 and the organiser has consent for the performance from the local authority concerned.
- Any entertainment provided by or on behalf of the local authority on their own premises between 08:00 and 23:00 is exempt.

Hospitals

- Live and recorded music are deregulated between 08:00 and 23:00 on a hospital premises provided that the audience does not exceed 500 and the

organiser has consent for the performance from the healthcare provider concerned.

- Any entertainment provided by or on behalf of a health care provider on their own premises between 08:00 to 23:00 is exempt.

Schools

- Live music and recorded music between 08:00 and 23:00 on a school premises provided that the audience does not exceed 500 and the organiser has consent for the performance from the school proprietor.
- Any entertainment provided by or on behalf of a school on their own premises between 08:00 to 23:00 is exempt.

Community Premises

- In a Church Hall, Village Hall and Community Hall or similar Community Premises that is not licensed to sell alcohol live and recorded music is exempt between the hours of 08:00 and 23:00 provided that the audience does not exceed 500 and the organiser has consent from the person responsible for the premises.
- Film exhibitions are also exempt between 08:00 and 23:00 provided that the film entertainment is not provided with a view to profit and there are not more than 500 people. The person concerned in the organisation of the event must also have prior written consent from the management committee or a person who has control of the premises and they must adhere to any age restrictions placed on the film.

Travelling circuses

- Any entertainment (excluding films and boxing/wrestling) is deregulated, provided that it takes place within a moveable structure which accommodates the audience and the circus has not been located on the same site for more than 28 consecutive days.
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Incidental Film

- An exhibition of film is not regulated entertainment if it is incidental to another activity.