
Taxi licensing – Driver renewals

Licensing & Public Safety Committee

Date of meeting: 14 March 2023

Lead director/officer: Sean Atterbury, Director of
Neighbourhood & Environmental Services

Useful information

- Ward(s) affected: All
- Report author: Rachel Hall, Chief Licensing Officer
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- Report version number: 1

1. Summary

- 1.1 The process for renewing taxi driver licences (hackney and private hire) has been revised. The report explains the reasons for this and sets out the new procedure.

2. Recommended actions/decision

- 2.1 It is recommended that the report be noted.

3. Scrutiny / stakeholder engagement

- 3.1 The revised procedure has been developed in consultation with the Legal team. Cllr Clair, Deputy City Mayor for Culture, Leisure, Sport and Regulatory Services has been informed and details have been sent to all licensed drivers and their representative.

4. Background and options with supporting evidence

- 4.1 The Town Police Clauses Act 1847 makes provision for councils to license hackney carriage drivers. The Local Government (Miscellaneous Provisions) Act 1976 makes provision for councils to license drivers of private hire vehicles.
- 4.2 Both types of licence must be renewed before they expire and licence holders are reminded of this requirement in advance. Most drivers do apply in good time and their applications are determined before the existing licence expires. However, there are occasions when licence holders apply close to the deadline, or when applications are incomplete at the expiry date. Officers have reviewed the process in relation to these applications and have established that the procedure needs to be amended to ensure that applications are determined within the correct timescale.
- 4.3 Colleagues from Legal Services have taken part in the review and are content with the new process

5. Detailed report

- 5.1 The former process for driver renewals began with licence holders being sent renewal reminders 6-8 weeks before their existing licence was due to expire. This was to allow sufficient time for them to apply and submit supporting information before the expiry date.
- 5.2 Whilst most applications were received and determined before the expiry date, some remained incomplete by the deadline. Officers would process applications after the expiry date having informed the applicant that they were not licensed in the interim period and so could not work as a taxi driver. However, it came to light that this is not the correct procedure and applications must be determined no later than the

expiry date of the existing licence. As a result officers have developed a revised process.

- 5.3 The renewal process is now being started earlier to give licence holders plenty of time to complete their application and have it properly determined before the expiry date.
- 5.4 Renewal reminders are sent as a courtesy although there is no legal requirement to do so. These are now being issued 12 weeks before the licence expiry date. The reminders set out clearly that the licensing authority will determine applications no later than the expiry date and that incomplete applications will be refused. To achieve this, licence holders are advised to submit their complete application (i.e., including payment and any supporting information) no later than six weeks before the expiry date. However, applications will continue to be accepted right up to the expiry date.
- 5.5 Applicants must undertake to update the licensing authority if anything changes between the submission of the application and the licence expiry date.
- 5.6 There are three different scenarios for applications. These are described below and are illustrated in the table at **Appendix A**.
- 5.7 Scenario 1 - Application received and able to be determined before expiry date
- 5.7.1 In most cases the application will be received in good time and will be determined before the expiry date, and the renewed licence will be issued to commence the day after the expiry date. This should be the case even if referral to the Head of Service or the Licensing Enforcement Sub-Committee is required. If the determination is to refuse to renew, the applicant has the right of appeal.
- 5.8 Scenario 2 - Application received but incomplete at expiry date
- 5.8.1 Applications that are incomplete on the expiry date will be considered by a Licensing Team Manager. If the Team Manager is of the opinion that the applicant has not satisfied all the pre-licensing checks the application will be refused. Noting that the onus is on the authority to show that the applicant is no longer suitable to be licensed as a taxi driver, Team Managers will have discretion to grant a renewed licence where appropriate (e.g., where there is a minor clarification awaited on a medical report) and the Team Manager believes there is insufficient evidence to warrant a refusal.
- 5.8.2 Where an application becomes complete just before the expiry date and requires determination by the Licensing & Public Safety Sub-Committee or the Head of Service but there is insufficient time available for this to take place, the Team Manager will refuse the application.
- 5.8.3 Where a renewal application is refused the applicant may appeal and is permitted to drive in the 21-day appeal window or until any appeal is determined. During the appeal period the applicant may satisfy the outstanding pre-licensing checks and be granted a new licence, in which case it is anticipated that the appeal will be withdrawn. If completed pre-licensing checks warrant higher level determination, then referral to the Head of Service or the Sub-Committee will be necessary.
- 5.8.4 Late renewals may be accepted in exceptional circumstances (in accordance with caselaw) but this is only for a few days and the circumstances must be more exceptional as time passes. In such cases driver cannot work pending determination. Any grant would be from the date of determination. The appeal period for any refusal would begin from the date of determination. By requiring submission

of applications 6 weeks before the expiry date, cases with an 'exceptional' reason are expected to be rare.

5.9 Scenario 3 - Application not received by expiry date

5.9.1 In all other cases where an application is not received before the expiry date, the licence will lapse, and no appeal will be possible. In such cases, drivers must apply for a new licence if they wish to continue to drive licensed vehicles.

5.10 Circumstances where determination should be made by the Sub-Committee or by the Head of Service are referred to in the constitution, as follows:

MATTERS RESERVED TO THE LICENSING ENFORCEMENT SUB COMMITTEE

1. Applications for a licence, consent or permit where a representation has been received from a ward councillor, a member of the public or an external organisation, (excluding the Licensing Act 2003 and Gambling Act 2005).

2. Applications for a licence, consent or permit where the Director Neighbourhoods & Environmental Services considers that the existing policy does not provide sufficient clarity on determining the application and/or where it would be more appropriate for the application to be determined by the Sub-Committee.

3. Applications for a licence, consent or permit which the law determines cannot be taken by an officer.

All matters within the Terms of Reference of a Licensing Sub-Committee which are not reserved to Full Council, the Licensing and Public Safety Committee or a Sub-Committee as stated above, are delegated to the Director Neighbourhoods & Environmental Services.

5.11 The Sub-Committee traditionally sits on the first Tuesday of every month. It is considered appropriate to move this to the end of each month to allow consideration of renewal applications within a reasonable timescale and to avoid refusals just because they don't fit in with the Sub-Committee report deadlines. As meeting dates are scheduled at the start of the municipal year this will commence from May 2023.

5.12 Head of Service hearings generally take place on the same day as the Sub-Committee but can be more flexible as required.

6. Financial, legal, equalities, climate emergency and other implications

6.1 Financial implications

6.6.1 There are no significant financial implications arising from this report.

Stuart McAvoy – Head of Finance, 37 4004

6.2 Legal implications

6.2.1. Section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976 lists the grounds on which a Council may suspend, revoke or [on application therefor under section 46 of the Act of the Town Police Clauses Act 1847 or section 51 of the Local Government (Miscellaneous Provisions) Act 1976] refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle.

- 6.2.2. Section 61(3) provides drivers with a right of appeal against a decision to the Magistrates' Court.
- 6.2.3. Section 77(2) provides: If any requirement, refusal or other decision of a district council against which a right of appeal is conferred by this Act -
- (a) involves the execution of any work or the taking of any action; or
 - (b) makes it unlawful for any person to carry on a business which he was lawfully carrying on up to the time of the requirement, refusal or decision;
- then, until the time for appealing has expired, or, when an appeal is lodged, until the appeal is disposed of or withdrawn or fails for want of prosecution -
- (i) no proceedings shall be taken in respect of any failure to execute the work, or take the action; and
 - (ii) that person may carry on that business.
- 6.2.4. In Greater London, section 17(7) of The Transport Act 1985 applies and provides - Where a person holds a licence which is in force when he applies for a new licence in substitution for it, the existing licence shall continue in force until the application for the new licence, or any appeal under this section in relation to that application, is disposed of, but without prejudice to the exercise in the meantime of any power of the licensing authority to revoke the existing licence.
- 6.2.5 Section 17(7) of The Transport Act 1985 does not apply outside of Greater London and there is no equivalent 'continue in force' provision within the legislation which does apply i.e. there is no statutory provision for a licence to remain valid until the Council's determination process has been determined.
- 6.2.6 R (on the application of Exeter City Council) v Sandle [2011] considered the renewal of a hackney carriage vehicle licence where the application for renewal was made one day late. In the circumstances of that case the Court accepted that the licence should have been renewed and whilst there was no particular period, only in exceptional circumstances would an application for renewal be entertained after a delay of two to three days.

John Moss, Legal Services, 373010

6.3 Equalities implications

- 6.3.1 Under the Equality Act 2010 (including the local authority and schools), have a Public Sector Equality Duty (PSED) which means that, in carrying out their functions, they have a statutory duty to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act, to advance equality of opportunity between people who share a protected characteristic and those who don't and to foster good relations between people who share a protected characteristic and those who don't.
- 6.3.2 Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

6.3.3 There are no direct equality implications arising from the report as it is for noting and looks at the revised process for renewing taxi driver licences (hackney and private hire), however it is important that any communication of the changes is accessible.

Sukhi Biring, Equalities Officer, 454 4175

6.4 Climate Emergency implications

6.4.1 There are no significant climate emergency implications associated with this report.

Aidan Davis, Sustainability Officer, Ext 37 2284

6.5 Other implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

None

7. Background information and other papers:

None

8. Summary of appendices:

Appendix A – Illustration of scenarios

9. Is this a private report (If so, please indicate the reasons and state why it is not in the public interest to be dealt with publicly)?

No

10. Is this a “key decision”? If so, why?

No

APPENDIX A - Illustration of three possible scenarios:

Original licence in effect			Original licence expired - renewed licence needed		
Reminder letters	Application phase (6 weeks)	Determination phase (6 weeks)	Day 1 after expiry	Day 1-21 after expiry	Day 22+ after expiry
Sent out 12 weeks before expiry date	Renewal application received	Renewal application determined before expiry date	Renewed licence in effect from day 1		
Sent out 12 weeks before expiry date	Renewal application received but not complete	Renewal application incomplete / out of time	EXPIRY DATE	Refuse to renew – determined by Team Manager	If appeal lodged – may continue driving until appeal is determined or withdrawn
				Pre-licensing checks may be completed and determined as a new application using usual procedure – grant or refusal starts from determination date (i.e., appeal window begins from determination of new application, not from original expiry date)	
Sent out 12 weeks before expiry date	No renewal application received	No renewal application received by expiry date	EXPIRY DATE	Late renewal application – if application is complete <u>may</u> consider exceptional circumstances in the first few days; driver can't work pending determination; grant or refusal starts from determination date (i.e., appeal window begins from determination of new application not from original expiry date)	
				No renewal application – licence lapsed; no appeal	