

Licensing Committee

29 November 2017

Report title	Hackney Carriage and Private Hire Vehicle Drivers' and Operators' Right to Work Immigration Checks	
Wards affected	All	
Accountable director	Kevin O'Keefe, Governance	
Originating service	Licensing Services	
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Recommendation(s) for decision:

The Licensing Committee is recommended to:

1. Authorise the introduction of an administrative charge to recover costs for processing immigration requests on behalf of applicants who cannot confirm immigration status or provide sufficient evidence of a right to work in the UK.
2. Approve the proposed charge for the right to work check as outlined in section 5.2 of this report as of 1 January 2018.

1.0 Purpose of report

- 1.1 To inform the Licencing Committee of the growing number of applicants who require Licensing Services to undertake immigration enquiries on their behalf because they do not have the correct immigration documentation to allow them to work in the United Kingdom (UK).

2.0 Background

- 2.1 The Immigration Act 2016 received Royal Assent on 12 May 2016. Schedule 5 of this Act specifically relates to Hackney Carriage (HC) and Private Hire (PH) Vehicle Drivers and Operators, which came into effect from 1 December 2016.
- 2.2 This placed a duty upon licensing authorities to perform checks on all new and existing HC/PH Vehicle Drivers and Operators. The checks are to prevent individuals without lawful immigration status and the right to work, from holding a Drivers' or Operators' licence.

3.0 Current process

- 3.1 An applicant that is unable to provide documentation from Annex A of Appendix 1, will not be able to collect their licence until further checks are carried out. Licensing Services will then have to complete a request for information form to send to the Home Office.
- 3.2 Depending on the outcome of the check, employees are able to issue a licence in line with the applicants' right to work status.
- 3.3 The individuals are informed to update their right to work status into a current document, to avoid having to have a check carried out on renewal.
- 3.4 If an applicant has no immigration status/right to work their application will be refused. There is a right of appeal of this decision to the Magistrates Court.

4.0 Implications of current process

- 4.1 The processing of a check takes significant resource and incurs additional costs of the service. These costs are not covered in the initial application fee.
- 4.2 Applicants are not dependant on the Council to consult with the Home Office. They can contact the Home Office themselves and have their right to work status updated into a current document.
- 4.3 The volume of checks carried out have significantly increased (with over 400 being sent to the Home Office since its implementation) and continue to do so, in line with the increase in the number of applications made.
- 4.4 Due to the volume of applicants with current permits in expired documentation which legislation states is not acceptable for right to work, the quantity of service level enquiries has increased.

5.0 Proposal

- 5.1 For applicants that do not have the required immigration documentation a licence would not be granted or renewed until such documentation has been provided.
- 5.2 It is proposed to offer a right to work check for all applicants who do not have the required documentation at a cost of £125.
- 5.3 This proposed charge is to recover the administrative costs involved in processing a right to work check.

6.0 Financial implications

- 6.1 A charge for this service was not incorporated in the initial application fee as applicants can contact the Home Office directly to update their right to work status. The volume of checks carried out by Licensing Services on behalf of applicants has significantly increased and the fee of £125 is now proposed to recover the administrative cost of the process.

[GE/16112017/F]

7.0 Legal implications

- 7.1 Section 51 and 55 of the Local Government (Miscellaneous Provisions) Act 1976 provide that an Authority shall not grant a driver or operator licence unless they are satisfied that the applicant is not disqualified by reason of the applicant's immigration status from driving or operating.
- 7.2 Sections 53A and 55ZA of the 1976 Act provides that a licence can be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period ("the leave period");
- 7.3 Section 53 of the 1976 Act provides that a council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle such a fee as they consider reasonable with a view to recovering the costs of issue and administration and Section 70 provides that a district council may charge such fees for the grant of an operators' licence as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part reasonable costs.

[SH/17112017/Z]

8.0 Equalities implications

- 8.1 To demonstrate a fair, transparent and consistent application process this check will be carried out on all applicants.

9.0 Environmental implications

- 9.1 There are no environmental implications arising from this report.

10.0 Human resources implications

10.1 There are no Human Resource implications arising from this report.

11.0 Corporate landlord implications

11.1 There are no Corporate Landlord implications arising from this report.

12.0 Schedule of background papers

12.1 None.