

**Body:** General Licensing Sub Committee  
**Date:** 26<sup>th</sup> June 2008  
**Subject:** Hackney Carriage and Private Hire Trade – Interim Fuel Surcharge  
**Report Of:** Kareen Plympton, Licensing Manager  
**Ward(s)** All  
**Purpose** To consider a request by the hackney carriage and private hire trade for an interim fuel surcharge to be added to each journey undertaken to take account of increasing fuel costs.  
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## **1. Introduction**

- 1.1 The Council, as the Licensing Authority, exercises a discretionary power to set the maximum fare for journeys undertaken by hackney carriage taxis. There are currently 90 licensed hackney carriage taxis that are permitted to ply for hire in the Eastbourne Borough. Fares charged by taxis can not be more than the fare set by the Licensing Authority The Council do not set the fares in relation to private hire vehicles.
- 1.2 In February - March 2008, the Licensing Team received requests for review in the current fare card and the associated maximum fare set by the Council.
- 1.3 Two proposed new fare cards were received from two hackney carriage proprietors. In response, the Licensing Team decided it prudent to conduct a ballot of all hackney carriage proprietors to vote for one or more of the following:
- Proposed fare card A
  - Proposed fare card B
  - Propose their own fare card
  - Vote for no change to the existing fare card
  - To propose a fuel surcharge if they so wished and suggest a proposed level.
- 1.4 90 hackney carriage proprietors were requested to respond to a survey conducted from the 29<sup>th</sup> April to 2<sup>nd</sup> June 2008.
- 1.5 **Fuel Surcharge Response Rate**
- 1.6 In relation to the consultation exercise,

- 35 responses received.
- Represents a 39% turnout.
- 12 of the respondents indicated that they believed a fuel surcharge should be levied.
- Therefore 13% of the total trade and 34% of respondents indicated that a fuel surcharge should be levied
- From the table below it can be seen that 9 proprietors indicated that the surcharge should be set at 30p plus the metered fare.

10p/mile	20p	30p	60p
1	1	9	1

## 2.0 Oil Prices

2.1 From Figure 1 below, it can be seen that crude oil prices have risen significantly in relation to the FTSE 100 over the past year. However oil and hence fuel prices are only part of the operating costs associated with running a licensed vehicle.

2.2 Other operating costs may have a significant impact on overall operating costs as expressed as a percentage in relation to the operating costs of fuel. Data is not available to support this and can only be gauged from the tax returns of individual drivers.

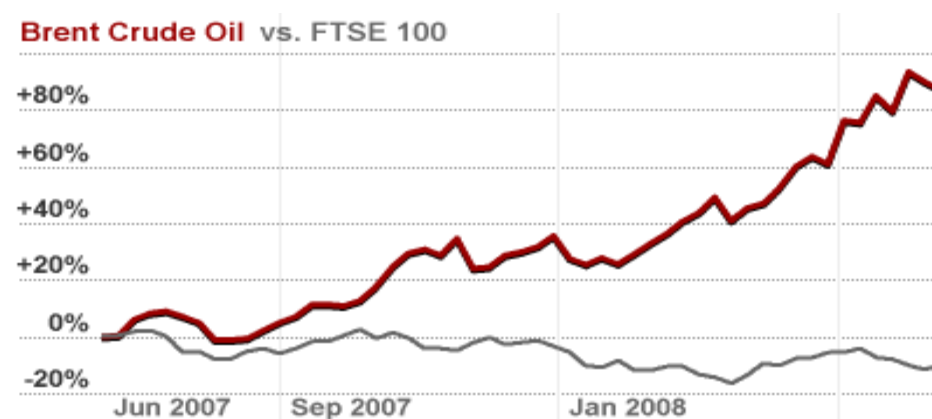


Figure 1

## 3.0 Legal Framework

- 3.1 In accordance with *R v Liverpool City Council, ex p Curzon Ltd* (12<sup>th</sup> November 1993, unreported) the High Court considered whether a discount can be made to the metered fare. It was decided that a driver is permitted to charge less than the local authorities agreed hackney carriage tariff.
- 3.2 To this end a fuel surcharge is not compulsory and drivers are under no obligation to make a fuel surcharge if agreed by Committee.
- 3.3 It is therefore at the discretion of the driver as to whether or not to levy an increase in fares and/or a fuel surcharge if agreed by Committee. Each driver must make a commercial decision.

#### **4.0 Implementation & Best Practice**

- 4.1 If Committee agree that a fuel surcharge can be levied, it is suggested by the Licensing Team that individuals who levy a fuel surcharge display a Council issued notice that informs the travelling public of this.
- 4.2 This will indicate that a fuel surcharge at a level determined by the Committee can be added to the metered fare at the end of the journey.
- 4.3 The driver will simply add this to the metered fare, and the customer will be notified of the fuel surcharge by way of the notice. This will reduce the chance of customers being aggrieved and the possibility of accusations of overcharging or conflict.
- 4.4 If the Committee agree a fuel surcharge, a Council issued notice should be displayed in a prominent position in the vehicle. A suggested notice is included at Figure 2.

**Please note: A fuel surcharge of X pence is levied in addition to the metered fare.**

#### **Figure 2**

- 4.5 If the above is agreed, it is intended that an advertisement detailing the decision is placed in a local publication for one week, as well as details being placed in a visible location at the Council Offices at 1 Grove Road, in the Public Information Display unit outside of the Town Hall and on the Councils Website prior to implementation. This will seek to inform the travelling public of any fuel surcharge in advance.
- 4.6 Furthermore, this fuel surcharge will be kept under review, and may be superseded or removed. This will depend upon ambient economic conditions and/or any change to the Council tariff.

#### **5.0 Human Resource & Financial Implications**

- 5.1 The cost of administering the Taxi & Private Hire Licensing function is fully recovered via the licence fee income.

#### **6.0. Human Rights Act 1998**

- 6.1 The provisions of the Human Rights Act, 1998, must be borne in mind by the Committee when taking licensing decisions under the Licensing Act, 2003. Particular regard should be had to Article 1 of the First Protocol, which relates to the protection of property and the peaceful enjoyment of possessions and property. Article 8 - which relates to the right to respect for private and family life, home and correspondence - should also be borne in mind. While the Human Rights Act makes it unlawful for a local authority to act or to fail to act in a way that is incompatible with a Convention right, Article 1 of the First Protocol and Article 8 are both qualified rights which means that interference - to a justifiable extent - may be permitted as long as what is done:

- Has a basis in law;
- Is intended to pursue a legitimate purpose
- Is necessary and proportionate; and
- Is not discriminatory.

## **7.0 Options**

7.1 The Committee can:

- 1) Agree a fuel surcharge of 30 pence per journey, and the inclusion of the Council approved public notice as detailed.
- 2) Refuse to allow the proposals relating to a fuel surcharge.

## **Background Papers**

- Local Government (Miscellaneous Provisions) Act 1976
- Town Police Clauses Act 1847
- Taxi, Licensing Law and Practice, Second Edition 2004, James Button