

BODY: General Licensing

DATE: 13th January 2014

SUBJECT: Hackney Carriage & Private Hire Licensing Fee Amendment

REPORT OF: Jay Virgo, Senior Specialist Advisor.

Ward(s): All

Purpose: To ask the Committee to approve the publication of the proposed hackney carriage and private hire licence fees detailed in this report, and to agree that the Council charge the fees outlined here with effect from 1st April 2014 if no objections are received in during the required period.

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Recommendations: Members are recommended to:

- 1) approve the publication of the proposed hackney carriage and private hire licence fees detailed in this report at figures 3a and 3b in accordance with statutory requirements, and
- 2) To agree that the fees outlined here will come into effect from 1st April 2014 if no objections are received in during the required consultation period.

1.0 Background

1.1 The Council's hackney carriage and private hire licensing function is self-financing. The fees which are levied are reviewed in consultation with Financial Management to ensure that there is neither a surplus nor deficit in the hackney carriage and private hire account.

2.0 Fee-Setting: General Principles

2.1 In order to ensure that council tax payers are not subsidising the work involved in the administration of licensing functions, income is raised by licence fees. These fees must not be used to raise revenue but instead are set at a level which aims to cover the cost of administering the function within the constraints of regulation.

2.2 Case law has established a number of points relevant to fee-setting. It has confirmed that approximate calculations of anticipated costs are sufficient to discharge the requirement that the licensing authority endeavour to achieve a break-even position. Surpluses as well as deficits must be carried over year on year, for local authorities must not make a profit. A shortfall in one year may moreover be rectified by increasing costs the following year where needed, although the council does not have to adjust the licence fee every year to reflect any previous deficit or surplus.

2.3 The setting of hackney carriage and private hire licensing fees is subject to the specific requirements of the Local Government (Miscellaneous Provisions) Act 1976, as outlined later in this report. It is a requirement that such fees are reasonable and imposed 'with a view to recovering the costs of issue and administration'. This can include the following:

- The reasonable cost of carrying out vehicle inspections to decide if a licence should be granted
- The reasonable costs of providing hackney carriage stands
- Any reasonable administrative or other costs in connection with vehicle inspection and providing hackney carriage stands and
- Any reasonable administrative or other costs in the control and supervision of hackney carriage and private hire vehicles, including the costs of assessing the suitability of applicants.

It will also include the costs of badge issuing and other administrative tasks, as well as enforcement undertaken in respect of licensed (but importantly not unlicensed) drivers.

3.0 Fees: Current and Proposed

3.1 Individuals are currently required to obtain either a hackney carriage driver's licence, a private hire driver's licence or a dual driver's licence to enable them to drive a licensed vehicle. The vehicle that the driver utilises must also be licensed. Additionally, private hire operators require a licence in order for them to take bookings on behalf of the drivers/vehicles within their fleet.

3.2 The current table of licence fees is laid out in Figure 1 below:

Figure 1: Current table of fees:

2013-2014	Number	Fee	Annualised Fee
Hackney Carriage Vehicles	102	£187	£187
Private Hire Vehicles	342	£95	£95
Hackney Carriage Drivers	85	£255	£85
Private Hire Drivers	308	£255	£85
Dual Drivers Licence	103	£286	£95
Private Hire Operators	18	£62-£1277	£62-£1277

3.3 The private hire operator fee levied is dependant on the number of private hire vehicles that the operator has within the fleet. The current fees are tabulated in Figure 2 below:

Figure 2: Current Private Hire Operator Fees

Licence for 1 – 2 vehicles	£ 62.00
Licence for 3 – 4 vehicles	£ 82.00
Licence for 5 – 10 vehicles	£ 144.00
Licence for 11 – 15 vehicles	£ 196.00
Licence for 16 – 20 vehicles	£ 247.00
Licence for 21 – 30 vehicles	£ 350.00
Licence for 31 – 40 vehicles	£ 453.00
Licence for 41 – 60 vehicles	£ 659.00
Licence for 61 – 80 vehicles	£ 865.00
Licence for 81 – 100 vehicles	£1071.00
Licence for 101 – and above	£1277.00

- 3.4 Hackney carriage and private hire vehicle licence fees are paid annually, as is the private hire operator fee. The driver licence fees are however paid every three years. Figures 1 and Figure 3a include all fees – including the driver licence fees - expressed annually for comparative purposes.
- 3.5 The last fee amendment took place in April 2001. As a result, there has been no change in the fees levied for over twelve years.
- 3.6 **Appendix 1** tabulates all taxi and private hire fees and charges currently levied at the current time, including the Disclosure and Barring Service (DBS) fee of £44. This is an additional fee that is added to the relevant driver licence fee and is subsequently paid by the Council to the DBS.
- 3.7 It is envisaged that going forward members of the trade *may* utilise the DBS online service directly. Hence, in the future, payment of £44 for this service *may* not be included as an addition to the driver licence fee for all drivers. However, for the foreseeable future, a further £44 will be required from most drivers in addition to the fees tabulated in Figure 1 and the proposed fees tabulated in Figure 3a.
- 3.8 The proposed table of licence fees is laid out in Figure 3a and 3b below.

Figure 3a: Proposed table of fees:

2013-2014	Number	Fee	Annualised Fee
Hackney Carriage Vehicles	102	£150	£150
Private Hire Vehicles	342	£150	£150
Hackney Carriage Drivers	Remove	£0	£0
Private Hire Drivers	Remove	£0	£0
Dual Drivers Licence	496	£315	£105
Private Hire Operators	18	£70-£1400	£70-£1400

Figure 3b: Proposed Private Hire Operator Fees

Licence for 1 – 2 vehicles	£ 70.00
Licence for 3 – 4 vehicles	£ 85.00
Licence for 5 – 10 vehicles	£ 150.00
Licence for 11 – 15 vehicles	£ 200.00
Licence for 16 – 20 vehicles	£ 250.00
Licence for 21 – 30 vehicles	£ 350.00
Licence for 31 – 40 vehicles	£ 450.00
Licence for 41 – 60 vehicles	£ 700.00
Licence for 61 – 80 vehicles	£ 880.00
Licence for 81 – 100 vehicles	£1100.00
Licence for 101 – and above	£1400.00

- 3.9 The proposed removal of the hackney carriage and private hire driver licences, whilst retaining the dual driver's licence, is intended to rationalise the fee structure. It is envisaged that in the future all drivers will utilise a universal (dual) driver's licence that may be used in conjunction with either a hackney carriage or private hire vehicle licence. A single fee, payable every 3 years, will therefore enable a driver to drive either a hackney carriage or private hire vehicle.
- 3.10 The proposed reduction in the hackney carriage vehicle licence fee from £187 to £150 and the increase in the private hire vehicle licence fee from £95 to £150 will ensure that the fees are set at the same level going forward. Historically a difference in fees levied from the hackney carriage and private hire trades was required to fund a patent unmet demand survey in respect of the hackney carriage trade. At the current time, however, as a consequence of the Council's current delimitation policy, there is no requirement for a patent unmet demand survey. There is therefore no justification for not setting fees at the same level across both arms of the trade so as to reflect an even distribution of the costs of the Council performing this regulatory function.
- 3.11 Abridged accounts for 2011-2012 and 2012-2013 are shown below in Figure 4.

Figure 4: Abridged accounts for 2011-2012 and 2012-2013

	2011-2012	2012-2013
Total Expenditure	£148,348	£129,111
Net Income	£115,294	£120,267
Net Annual Expenditure	£33,054	£8,844
Net cumulative Surplus	£21,772	£12,928

- 3.12 While expenditure has exceeded income during the last two financial years, the surplus which has been carried forward has offset this. However the Council's *projected* budget at the 2013/14 year end for the costs of administering and ensuring compliance with the scheme indicates a **potential budget deficit** of **£12K**. Therefore the proposed licence fee amendment is intended to address this projected deficit in the short to medium term.

- 3.13 For comparative purposes Figure 5 includes the fees charged by neighbouring authorities for licensed vehicles and drivers. All fees are on an annualised basis:

Figure 5: Neighbouring Authority Fees

Neighbouring Authority	Hackney Carriage Fee	Private Hire Vehicle Fee	Driver Licence Fee
Hastings	£205	£205	£100
Lewes	£180	£180	£120
Adur	£352	£259	£88
Worthing	£230	£191	£92
Ashford	£270	£270	£49
Mid Sussex	£226	£192	£46
Rother	£225	£225	£105
Wealden	£200	£185	£100
Eastbourne (Proposed)	£150	£150	£105 (ex DBS fee)

- 3.14 The data in Figure 5 clearly indicates that the proposed level of fees is highly competitive when viewed alongside the charges levied by neighbouring authorities. Monthly budget monitoring, to enable predicted year end budgets, will facilitate the requirement for licence fee reviews going forward. This will ensure that as far as foreseeable, the service runs at cost.

4.0 Implementation of New Fee Proposals

- 4.1 The legislation governing this area is the Local Government (Miscellaneous Provisions) Act 1976. Section 70 of that Act imposes a statutory requirement that the authority advertise proposed licence fee increases in the local press so as to give members of the public and the trade an opportunity to object to the proposals within 28 days of the advertisement. The procedure is documented in **Appendix 2**.
- 4.2 As part of the consultation process, all members of the hackney carriage and private hire trade will be individually written to outlining the proposals for the fee change and inviting representations. This will give the trade the opportunity to raise objections.
- 4.3 In accordance with **Appendix 2**, if any objections are received in from either the trade or the public then before any new scheme is implemented the matter will instead be brought back before this Committee. The task of considering the objections and determining the new fee structure to be implemented will then fall to members.
- 4.4 If no objections are received then the proposed new fee structure will be implemented from 1 April 2014.

5.0 Legal Considerations

- 5.1 The Council's Legal Officer has been fully consulted.

6.0 Financial & Resource Implications

- 6.1 The Council's Finance Team is actively involved in the project to set fees and charges

at fair and proportionate levels so that the income received does not exceed the cost of the function and the service is effectively self-financing. They have been fully consulted on this report and have advised accordingly.

7.0 Human Rights

- 7.1 The provisions of the Human Rights Act 1998 must be borne in mind by the Committee when taking licensing decisions. 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.
- 7.2 Article 8 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;

8.0 An Equality and Fairness Analysis

- 8.1 An Equality and Fairness analysis and scoping report will be carried out.

9.0 Summary

- 9.1 The report explains the key elements of the procedural requirements required to implement a proposed licence fee amendment. Subject to committee approval, it lays the foundation for proposals which ensure that the fee income received in reflects the cost of running the function in accordance with the law.

Background papers

Taxis Licensing Law and Practice 3rd Ed, James Button

The Local Government (Miscellaneous Provisions) Act 1976

Town Police Clauses Act 1847

Appendix 1: Taxi and Private Hire Fees and Charges Effective 1st April 2013

Driver's Licence

£

Three year Hackney Carriage, Private Hire or Dual Driver's Licence *incl. £44 for your 3 year Disclosure & Barring Service (DBS) check
299.00

(* If you have made a DBS check application since 17/6/2013 and subscribe to the DBS Update Service a new DBS check application may not be required. Go to www.gov.uk/dbs for further information)

Vehicle Licence

Hackney Carriage187.00

Private Hire95.00

Vehicle Suitability Test (VST) (including MOT)

Fee to be paid and booking made directly with Contractor See "How to Book Tests"

NEW VEHICLES TO THE TRADE

Before you buy any vehicle, please contact the office at 1 Grove Road to check that the vehicle is approved.

Following purchase, details of the vehicle and insurance must be sent to this office.

Plate Deposit 50.00

Replacement Plate40.00

Operator's Licence Renewals

Licence for 1 – 2 vehicles 62.00

Licence for 3 – 4 vehicles 82.00

Licence for 5 – 10 vehicles 144.00

Licence for 11 – 15 vehicles196.00

Licence for 16 – 20 vehicles247.00

Licence for 21 – 30 vehicles350.00

Licence for 31 – 40 vehicles453.00

Licence for 41 – 60 vehicles659.00

Licence for 61 – 80 vehicles865.00

Licence for 81 – 100 vehicles1071.00

Licence for 101 – and above1277.00

New Driver Application

(the CRB fee of £44 and DVLC licence check of £5.00 is included)

143.00

Knowledge re-test following fail 45.00

Replacement Driver's Badge 10.50

Set of Byelaws 10.00

Change of Vehicle – Transfer of Licence 35.00

Replacement Copy of Driver/Vehicle Licence 10.50

Approved Taximeter Agents

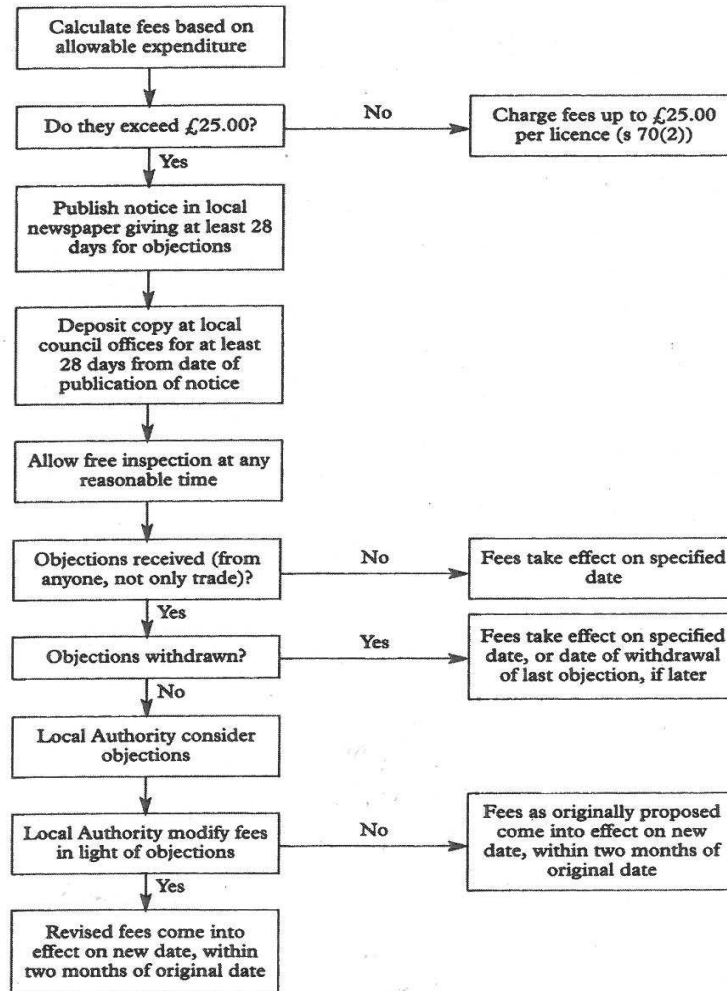
Taximeter Plusmax 15.00

Smith and Humphreys

Radio Relay Smith and Humphreys

Appendix 2: Flow Chart for Fee Setting

FLOW CHART FOR FEES SET UNDER SECTION 70 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976



(Taxi Licensing Law and Practice 3rd Ed, p106, James Button)