

BODY: General Licensing Committee

DATE: 17th March 2014

SUBJECT: Hackney Carriage & Private Hire Licensing Fee Amendment

REPORT OF: Jay Virgo, Senior Specialist Advisor.

Ward(s): All

Purpose: To consider the representations received in during consultation on the proposals which were put before Committee on 13th January 2014 and to determine the future fee structure to be applied

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Recommendations: Members are recommended:

- 1) To consider the representations received in during the consultation process alongside the proposals for a new fee structure to come into effect on 1st April 2014
- 2) To determine the fee structure to be applied to the hackney carriage and private hire trade going forward.
- 3) To agree to remove the individual hackney carriage and private hire driver licences, whilst retaining the dual driver's licence.

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.
- 1.2 On the 13th January 2014 this committee agreed to consult on proposals to amend the hackney carriage and private hire licensing fees. Minutes of that meeting and a copy of the report are contained in **Appendix 1**.

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 Proposed Fee Amendment

3.1 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.

3.2 In accordance with **Appendix 2**, the Local Government (Miscellaneous Provisions) Act 1976 provides that representations received in from either the trade or the public must be put before this Committee. The task of considering the representations and determining the new fee structure to be implemented falls to the Committee.

3.3 Accordingly a public notice was placed in the Eastbourne Gazette published on the 28th January 2014. It invited representations up until 3rd March 2014: a period which exceeds the statutory minimum. Notices were also exhibited at the Town Hall and at 1 Grove Road. Additionally, a public consultation page was also set up on the Councils website.

3.4 All members of the hackney carriage and private hire trade were in addition written to individually regarding the consultation and were invited to make representations regarding the proposed amendment to the fees. A copy of the letter sent to the trade is included in **Appendix 3**.

3.5 Specific attention was drawn to the following proposed amendments:

- 1) Hackney Carriage & Private Hire Vehicle Licence Fee = £150 per annum, paid yearly
- 2) To retain a single dual drivers' Licence Fee of £315 paid every 3 years (an

equivalent of £105 p.a.). An additional £44 will also be payable for the Disclosure and Barring Service every three years. The dual licence fee will enable all members of the trade to drive either a hackney carriage or private hire vehicle, subject to suitable insurance.

- 3) The proposed Private Hire Operator fee amendment is determined by the number of vehicles licenced by each operator, set out in Figure 1:

Figure 1: Proposed 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

4.0 Response Received to the Consultation

4.1 A copy of all representations received is included in **Appendix 4**.

4.2 Trade members were invited to respond to the following questions as laid out in the correspondence included in **Appendix 3**.

- Do you agree with the proposed vehicle licence fee amendment that would charge hackney Carriage and Private Hire proprietors the same fee? (Yes/No – Give reasons)
- Do you agree with one dual drivers licence fee? (Yes/No – Give reasons)
- Do you agree with the proposed Private Hire Operator fee amendment and structure? (Yes/No – Give reasons)
- Any further comments in relation to the proposed fee amendments?

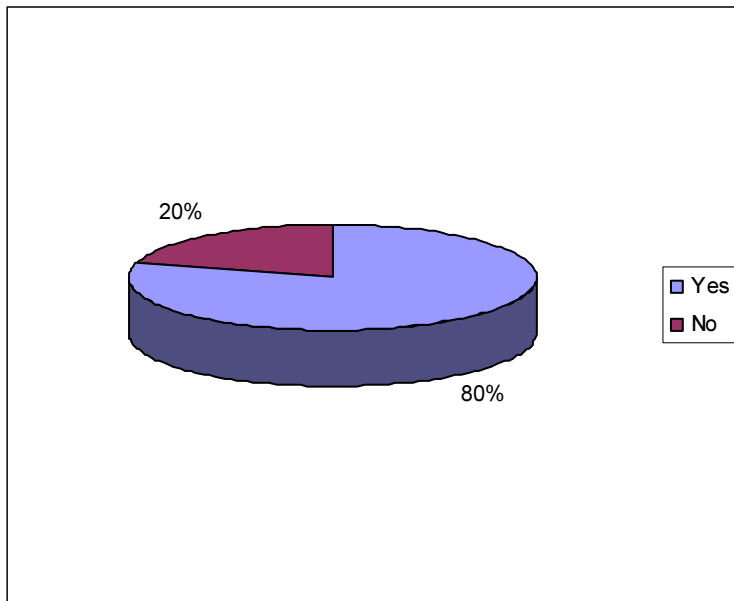
The rationale for the questions was to facilitate empirical measurement of the responses received.

4.3 In total 960 letters were sent to members of the trade. This included all drivers, proprietors and operators. This was to ensure that all members of the trade were included in the consultation process. The authority received 50 responses from the trade.

4.4 A copy of all representations received is included in **Appendix 3**.

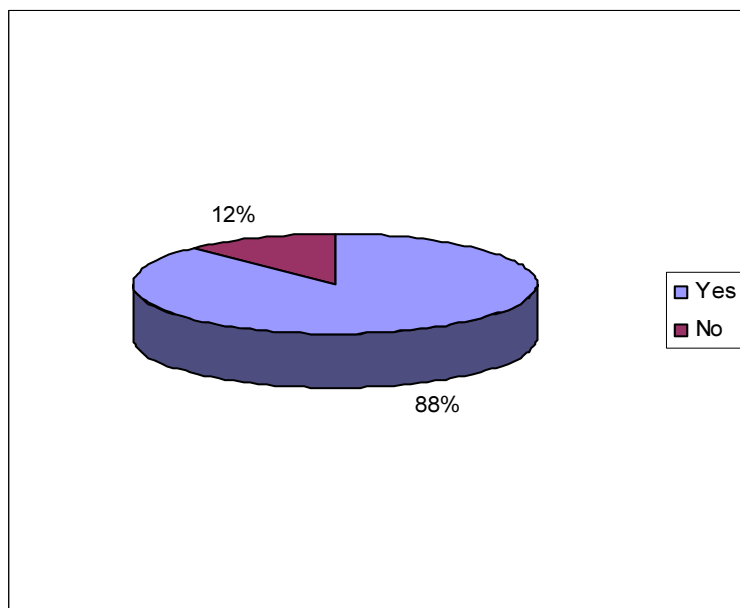
4.5 In response to the first question 80% agreed with the proposal and 20% disagreed, as per Figure 2:

Figure 2: Do you agree with the proposed vehicle licence fee amendment that would charge hackney Carriage and Private Hire proprietors the same fee?



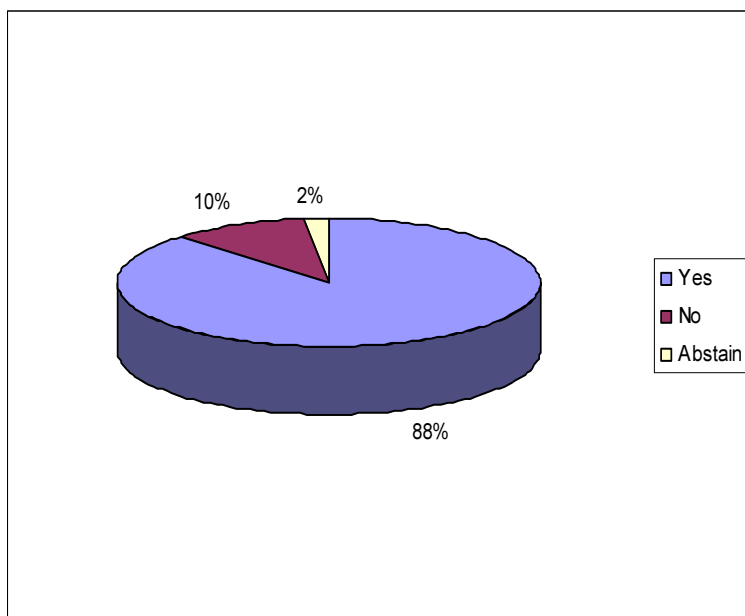
- 4.6 In response to the second question 88% agreed with the proposal and 12% disagreed, as per Figure 3:

Figure 3: Do you agree with one dual drivers licence fee?



- 4.7 In response to the third question 88% agreed with the proposal, 10% disagreed and 2% abstained, as per Figure 4

Figure 4: Do you agree with the proposed Private Hire Operator fee amendment and structure?



5.0 Implementation of New Fee Proposals

5.1 In accordance with **Appendix 2**, this Committee must consider all representations received in regarding the proposed licence fee amendment.

5.2 Having considered the representations, this Committee may either:

- Agree to adopt the proposed fee changes which were consulted upon, or
- Adopt an amended version of the proposals

It is not recommended that the Committee allow the fees to remain at their current level and form as the current level of fees charged will not cover the cost of the function on an ongoing basis.

5.3 While the new fee arrangements must come into effect no later than **1st June 2014** in order to accord with statutory timescales, it is recommended that the Committee agree that any new proposals come into force from 1st April 2014 so as to accord with the new financial year.

6.0 Legal Considerations

6.1 The Council's Legal Officer has been fully consulted.

7.0 Financial & Resource Implications

7.1 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 been advised accordingly.

8.0 Human Rights

8.1 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.

8.2 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;

9.0 An Equality and Fairness Analysis

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

10.0 Summary

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

Background papers

Taxi Licensing Law and Practice 3rd Ed, James Button

The Local Government (Miscellaneous Provisions) Act 1976

Town Police Clauses Act 1847