Appendix 1: Report and Minutes from General Licensing Committee 13th Jan 2014 Agenda Item 7

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 $\mathbf{1}^{\text{st}}$ 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 $\mathbf{1}^{\text{st}}$ 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 |

- 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 Replacement Plate40.00 **Operator's Licence Renewals** Licence for 1 – 2 vehicles 62.00 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 Replacement Driver's Badge 10.50 Set of Byelaws 10.00 Change of Vehicle – Transfer of Licence Replacement Copy of Driver/Vehicle Licence 10.50

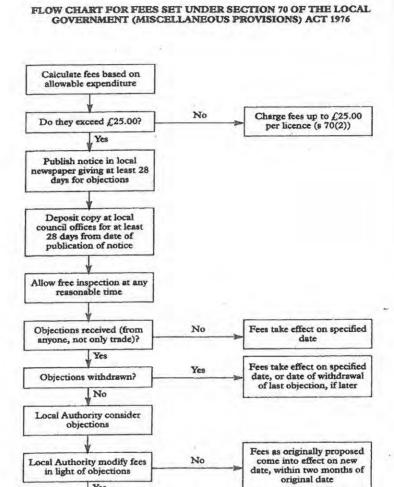
Taximeter Plusmax 15.00

Approved Taximeter Agents

Radio Relay Smith and Humphreys

Smith and Humphreys

Appendix 2: Flow Chart for Fee Setting



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

Revised fees come into effect on new date, within two months of original date Monday, 13 January 2014 at 6.00 pm



General Licensing Committee

Members:

Councillor Shuttleworth (Chairman), Councillors Ansell, Coles,

Cooke, Hearn, Liddiard, Murdoch, Warner and West

(Apologies for absence were reported from Councillors Murray, Stanley, Thompson and Ungar)

1 Minutes of the meeting held on 18 March 2013

The minutes of the meeting held on 18 March 2013 were submitted and approved and the Chairman was authorised to sign them as a correct record.

2 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct

None were received.

3 Hackney Carriage and Private Hire Licensing Fee Amendment.

The Committee considered the report of the Senior Specialist Advisor in relation to the proposed amendment to the hackney carriage and private hire licensing fees.

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

The Senior Specialist Advisor gave an overview to the Committee on the general principles of fee-setting. Income was raised by licence fees in order to ensure that council tax payers were not subsidising the work involved in the administration of licensing functions. The fees were not used to increase revenue but instead were set at a level which aimed to cover the cost of administrating the function within the constraints of regulation.

Case law confirmed that approximate calculations were sufficient to discharge the requirement that the licensing authority endeavour to achieve a break even position. Surpluses in addition to deficits are required to be carried over year on year in order for local authorities to not make a profit. For example a shortfall in one year could be rectified by increasing costs the following year, although the authority does not have to adjust the licence fee every year to reflect a previous deficit or surplus.

It is a requirement that such fees are reasonable and imposed 'with a view to recovering the costs of issue and administration'. This included such matters as the reasonable cost of carrying out vehicle inspections to decide if a licence should be granted and the costs of assessing the suitability of applicants. This also included the cost of badge issuing and other administrative tasks as well as enforcement undertaken in respect of licensed drivers.

Currently individuals are 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. All vehicles that a driver utilised were required to be licensed and in addition private hire operators required a licence in order to take bookings on behalf of the drivers/vehicles within their fleet. Current licence fees were included in Figure 1 as part of section 3.2 of the report. The private hire operator fees levied was dependant on the number of private hire vehicles that the operator has within the fleet. The current fees for private hire operators were included in Figure 2 as part of Section 3.3 of the report.

The last amendment made to the fees took place in April 2001; therefore no change in the fees had been made in over twelve years. Appendix 1 of the report tabulated all taxi and private hire fees and charges currently levied, including the Disclosure and Barring Service (DBS) fee of £44. This was an additional fee added to the relevant driver's licence fee and was subsequently paid by the Council to the DBS. The Committee was advised that going forward it was envisaged that the trade may utilise the DBS online service directly at a cost of a £15 fee. This could result in the additional payment of £44 not being included in the driver licence fee which the licensing authority charges all drivers.

The proposed table of licence fees was laid out in Figures 3a and 3b of the report. It was proposed that the hackney carriage and private hire driver licences be removed, whist retaining the dual driver's licence, so as to rationalise the fee structure. It was envisaged that all drivers would utilise a universal (dual) driver's licence that could be used in conjunction with either a hackney carriage or private hire vehicle licence. The single fee, that would be payable every 3 years, would enable a driver to drive either a hackney carriage or private hire vehicle. The proposals also ensured that the hackney carriage and private hire licence fees were set at an equal level of £150.

The Council's abridged accounts for 2011-2012 and 2012-2013 were included in Figure 4 as part of 3.11 of the report. Whilst expenditure had exceeded income during the last two financial years, this had been offset by the surplus which had been carried forward. The Committee was advised that the Council's projected budget at the 2013/14 year end for the costs of administrating and ensuring compliance with the scheme indicated a potential budget deficit of £12,000. The proposed licence fee amendment was intended to address the projected deficit in the short to medium term. A comparison with neighbouring authorities for licensed vehicles and driver's fees were included in Figure 5 as part of 3.13 of the report. The data clearly indicated that the proposed level of fees were highly

competitive. Councillor Cooke enquired whether the driver licence fee column, part of Figure 5 was for a dual licence. This was confirmed by the Senior Specialist Advisor, who advised the Committee that combining the two licences was a popular option amongst the trade.

The setting of hackney carriage and private hire licensing fees was subject to the specific requirements of the Local Government (Miscellaneous Provisions) Act 1976. The Act imposed a statutory requirement that the authority advertise the proposed increase of the licence fee in the local press, giving members of the public and the trade an opportunity to object to the proposals within 28 days of the advertisement. The full procedure was included at appendix 2 of the report. If any objections were received from the trade or the public, the matter would be referred back to the General Licensing Committee before any scheme was implemented. If no objections were received, the new fee structure would be implemented from 1 April 2014.

Mr Peter Smith, UNITE Hackney Carriage trade addressed the Committee and raised several concerns with the proposed fees. He made reference to the fact that the fees had last been amended 12 years ago in April 2001. In his view the hackney carriage trade had subsidised the private hire trade for a number of years. While the proposed fees might appear a reduction on paper, it was actually an increase. Mr Smith stressed that the hackney carriage trade had been harshly treated. He suggested a reduced fee arrangement for the hackney carriage proprietors.

He also feared that creating a single dual licence would lower the standards of driving in the trade. Currently hackney carriage drivers were expected to know a location in the town without the aid of a satellite navigation system, unlike drivers of private hire vehicles who sometimes utilise sat-nav systems. Mr Smith stated that he did not think private hire proprietors reach the standard of hackney carriage proprietors despite passing the compulsory knowledge test that all drivers are required to take. While a satellite navigation system would be useful if an address is picked up, problems would arise if an address could not be found by the system. Mr Smith advised that he did not have any objections to equal costs for licensing fees.

Mr Smith made reference to figure 5, as part of 3.13 of the report. He pointed out that the column for driver licence fee did not specify whether the fees charged by neighbouring authorities excluded the DBS fee of £44. He then raised concerns over the low and inconsistent fees proposed for private hire operator vehicles, going up the scale included at figure 3b, as part of 3.8 of the report. Mr Smith concluded by reiterating his concerns with the proposed fees. This included the proposed licence fee for hackney carriage vehicles, the anomaly that led to the hackney carriage trade paying more than required, the annual costs, the potential of standards being lowered in the trade and the cost of operation that Mr Smith felt had not been taken into account sufficiently.

Following a question from the Committee, the Senior Specialist Advisor clarified that currently when an individual passed the knowledge test they had an option to go for a dual licence and advised that there was no

difference in expectations for either licence. The proposed fees were designed to rationalise the service.

Councillor Warner enquired about the quality checking on driver standards amongst the trade. The Senior Specialist Advisor responded that the testing procedure had evolved over the past year. Prior to last year, four questions were asked to drivers at their knowledge test. This had now changed and the questions had been expanded and were regularly added to and at a knowledge test, twenty questions were picked at random. Mr Smith suggested that drivers were supplying questions and answers to each other to assist in the testing phase.

Councillor Liddiard asked how often new routes would be added to the knowledge test. The Senior Specialist Advisor responded that this was down to the Specialist Advisor's discretion but to avoid repetition the body of questions were added to regularly.

Councillor Warner enquired whether drivers were monitored after they had passed their knowledge tests. The Senior Specialist Advisor responded that once an individual passed a knowledge test, they had reached the customer expectation. It was a possibility that practical tests could be completed in an individual's car when required. If a driver failed a knowledge test, they could apply for a re-set with a new set of questions.

Councillor Liddiard suggested the idea of a mystery shopper style test for monitoring drivers. The Senior Specialist Advisor took onboard the suggestion and advised that this could be an option in the future. Currently if an individual contacted the Council regarding a driver, the Council would investigate and the appropriate action carried out.

Councillor Shuttleworth addressed the anomaly that had been raised by Mr Smith and assured that the Council was looking to put it right for the future. Councillor Ansell enquired what would occur if an undercharge occurred. The Senior Specialist Advisor responded that this would be addressed early by the Council's finance team and that it would flag up on the system.

Following a question from the Committee in relation to operator fees for quantity of vehicles, the Senior Specialist Advisor advised that Wealden District Council charged £120 per year irrespective of size of company/individual. For example the company Road Runner who operate 150 vehicles would pay the same cost per vehicle as an operator with one vehicle.

Councillor Hearn asked whether there was a difference in the tests for hackney carriage and private hire drivers. The Senior Specialist Advisor confirmed that the same test applied for all drivers.

Councillor Coles enquired about the consultation process and how many responses are normally received from the Trade. The Senior Specialist Advisor advised that the authority writes to all drivers and invites them to make a representation. This goes above the statutory requirement but the authority can't force a driver to respond.

Councillor Cooke asked about the proposed private operator fees and whether a set fee of £X per private hire vehicle licensed under the operator would be more appropriate. The Senior Specialist Advisor responded that the proposed fees were designed to not disadvantage those with a higher quantity of vehicles and reiterated that Wealden charged a flat fee across the board, regardless of vehicle quantity.

Councillor Murdoch reiterated the anomaly that had been raised by Mr Smith. He asked how regularly the fees would be monitored to avoid a repeat of the mistake that had led to the hackney carriage trade being overcharged. The Senior Specialist Advisor advised that monthly budget monitoring would take place, thus enabling year end budgets to facilitate the requirement for licence fee reviews going forward. The Committee was informed that it would be possible to revisit the fees set in the future.

Councillor West asked what legal steps could be taken to address the fact that hackney carriage drivers had been wrongly levied. The Monitoring Officer responded that this would need to be investigated in a different forum. Councillor Warner, Chairman of the Scrutiny Committee advised that the issue could be looked at by the Scrutiny Committee. This was supported by Councillor Shuttleworth, Deputy Chairman of the Scrutiny Committee.

RESOLVED: (Unanimously) (1) That the publication of the proposed hackney carriage and private hire licence fees, detailed in the report at figures 3a and 3b be approved in accordance with statutory requirements.

(2) That the approved fees come into effect from 1st April 2014, if no objections are received in during the required consultation period.

The meeting closed at 7.09 pm

Councillor Shuttleworth (Chairman)