

SUBMISSION TO REGULATORY AND LICENSING COMMITTEE

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Agenda Item: 4

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SUBMISSION BY GARETH DAVIES – PRINCIPAL ENVIRONMENTAL HEALTH OFFICER

Revised Fee Structure for Hackney Carriage and Private Hire Licensing

1. Purpose of Report

- 1.1 To advise members of the current fee structure for the taxi licensing function.
- 1.2 To advise members of the legal framework and consultation process for setting fees.
- 1.3 To amend the existing fee structure to reflect current service costs for specific licensable activities within this area.
- 1.4 For members to approve for consultation the revised fee structure contained in **Appendix A**.

2. The Law

- 2.1 Local Authorities who administer the licensing of Taxis are required to conform to the Local Government (Miscellaneous Provisions) Act 1976 Sec 70, which makes provision for the District Council to charge such fees for the grant of vehicle and operators' licences sufficient in the aggregate to cover in whole or in part:
 - the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;
 - the reasonable cost of providing hackney carriage stands; and
 - any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.
- 2.2 The Local Government (Miscellaneous Provisions) Act 1976 Sec 53(2) also makes provision for a District Council to demand and recover for the grant to any person of a licence to drive a hackney carriage and private hire vehicle, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so.

3. Background to the report

3.1 Members will be aware that Lichfield District Council was challenged recently by the trade for not advertising a fee increase and the overall levels of fees. The fee level was investigated and justified at that time. Other Local Authorities received similar challenges and in the case of Guilford Borough Council the Audit Commission conducted a detailed investigation into the matter. Following the investigation the District Auditor made 5 recommendations for Guilford Borough Council. **This review of fees is underpinned by the District Auditor's findings and recommendations.**

3.2 In the following points I pick up on some of the main findings and recommendations and outline how we have addressed them:-

- **District Auditor** - 'The Legislation does not require councils to make a precise calculation so as to arrive at income which exactly meets the cost of the various licenses. Councils are required, however, to take a reasonable approach and should aim to set a fee that is sufficient to cover the cost but not make a surplus'

European Union legislation (Services Directive 2006/123/EC) which was enacted in the UK in 2009 backs this view up, by requiring us to set fees that are proportionate to the effective cost of the procedure dealt with. The Directive requires us to bear in mind the threat of a legal challenge should a service provider feel that the levels of fee are being used as an economic deterrent or to raise funds directly for us. Enforcement costs should not be assimilated with the application fee.

Our Response - We have conducted a time recording exercise of direct staff costs for three months, recording the time spent by each type of license. **(Appendix B)** Our objective is to set our fees at a level to cover the cost but not make a surplus. Appendix B shows that the ratio of fee recovery for each type of license is different. The fees proposed in Appendix A aim to equal out those differences. However, it must be noted that this will never be an exact calculation because the time spent in the different areas continually changes.

- **District Auditor** - 'Maintain accounting records which clearly demonstrate the costs and fees for each type of license as set out in sections 53 and 70 of the Act.'

Our Response - We have changed our accounting procedures so that we have clear records of income from each type of license. As stated previously a time recording exercise for direct staff costs has been conducted over a three month period to more accurately reflect the costs for each type of license **(Appendix B)**. This exercise shows that direct costs measured in this way are slightly less than previously calculated. (£33,444 compared to 2012/13 outturn of £38,067) **(Appendix B & C)**

- **District Auditor** - 'Exclude enforcement costs from drivers' and operators' license fees.' Direct staffing costs excluded these costs. The District Auditor took legal advice in reaching this conclusion, it must be noted that Guilford Borough Council took its own legal advice which differed.

Our Response - These costs are not included to reduce the risk of legal challenge.

- 3.3 Historically the Taxi trade has only paid part of the costs for running this service. Recent reviews of fees have been aimed to reduce the level of subsidy and move towards full recovery. It must be noted that Case Law dictates that we can't make a profit and must carry forward any surplus:-

R v Manchester City Council ex parte King 89 LGR 696

R (app Simply Pleasure and Ors) v Westminster City Council [2012] EWHC 1260 (Admin)

But we can also recoup a deficit:-

R v Tower Hamlets London Borough Council ex parte Tower Hamlets Combined Traders Association (1994) COD 325

R (app Simply Pleasure and Ors) v Westminster City Council [2012] EWHC 1260 (Admin)

In relation to the final case I understand this is being appealed by Westminster City Council.

4. Proposals

- 4.1 The current fee structure has been in place since 5 April 2012, **Appendix A**.
- 4.2 Income derived from taxi licensing must not exceed the actual cost to the council of running the service (excluding some aspects of enforcement)
- 4.3 Set out in **Appendix A** is the draft proposals for the revised fee structure for Members consideration.
- 4.4 The net income from the trade was £53,757 in the last financial year.
- 4.5 Financial Services have confirmed that the overall cost to the Council for 2012/13 was £89,429. The Net Expenditure was £35,672. Accordingly the Council is able to demonstrate compliance with this requirement (**Appendix C**). It must be noted that Central Support Charges to this service were £60,032 (12/13 outturn). Various methods are used depending on the service to calculate this figure corporately. However, the time element for some areas is on annual estimated time sheets. It is recommended that a more detailed study is taken into these figures, before fees are increased overall.
- 4.6 Since the introduction of the option to have a 5 year Operator's license, in the last review, no one has taken up this opportunity. It is quite complicated to calculate and administer and as such this option has been removed from **Appendix A**.
- 4.7 The proposed fees will more accurately allocate the actual costs of specific aspects of the service to those users, e.g. drivers, operators who benefit from the service.

4.8 These new proposals are intended to ensure:

- That the fee structure closely reflects the current cost of carrying out the individual functions within the taxi licensing regime.
- Reflects the Councils aspirations in terms of cost recovery for this service within the legal framework for setting fees.

4.9 If Members decide to vary the fees the Local Authority has to advertise the change in a local paper and keep copies in reception for public viewing. If no objection is duly made the new fees comes into force at the day of expiry for the period of consultation. If objection/s are duly made the Local Authority shall within two months set a new date for the tariff to come into force after reviewing the fees in consideration of the objection/s.

5. Recommendations

5.1 To approve the revised fee structure detailed in **Appendix A** for consultation.

5.2 That time spent on licensing functions by Support Services is recorded for the allocation of Central Support Service charges.

6. Financial Implications

6.1 The proposed fee structure will reflect more closely actual costs.

6.2 It is estimated that with the revised fees proposed (**Appendix A**) overall income will remain static.

7. Human Rights Issues

7.1 The rights of individuals and businesses will be protected by:-

- a consistent, proportionate and fair approach to taxi licensing administration;

8. Risk Management Issues

Risk	Likelihood/ Impact	Risk Category	Countermeasure	Responsibility
Objections from the taxi trade on the effects of increased/ different fee structure	High	Customer / Citizen	Consider any consultation response and review if justified	Regulatory and Licensing Committee
Income exceeds expenditure which results in legal challenge	Low	Legal	Monitor and review	Environmental Health Manager/ PEHO

Report Checked and approved

Strategic Director Community, Housing & Health

Appendix A- Current and Proposed Fee Structure

**FEEES FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS,
VEHICLES AND OPERATOR LICENCES**

DRIVER LICENCES	CURRENT FEE	PROPOSED FEE
Combined driver grant in full (incl. CRB ,medical, badge, licence, DVLA D796 check and sit one knowledge test)	£249.00	£239.00
Combined driver renewal one year in full (incl. licence, badge and DVLA D796 check)	£150.00 reduced to £100.00 when complete application received early	£135.00 reduced to £90.00 when complete application received seven days before expiry
Combined driver renewal three year in full (incl. licence, badge and 3 DVLA D796 checks)	£337.50 reduced to £225.00 when complete application received early	£336.50 reduced to £239.00 when complete application received seven days before expiry
Medical Examination	£45.00 at cost	£45.00 at cost
Criminal Record Bureau Check	£44.00 at cost	£44.00 at cost
Knowledge Examination (per test)	£40.00	£40.00
DVLA D796 – drivers entitlement to drive	£5.00 at cost	£5.00 at cost
OPERATOR LICENCES	CURRENT FEE	PROPOSED FEE
One year licence	£50.00 per vehicle	£65.00 per vehicle
Five year licence	£200.00 per vehicle	
Additional vehicles		
Time remaining on licence 1 year or less	£50.00 per vehicle	
Time remaining on licence 1 to 2 years	£60.00 per vehicle	
Time remaining on licence 2 to 3 years	£100.00 per vehicle	
Time remaining on licence 3 to 4 years	£140.00 per vehicle	
Time remaining on licence 4 to 5 years	£200.00 per vehicle	
Amendments to licence (inc. Change of vehicle, address etc)	£20.00 per vehicle	£20.00 per vehicle
REPLACEMENT ITEMS	CURRENT FEE	PROPOSED FEE
Replacement driver licence certificate	£15.00	£15.00
Replacement drivers licence badge	£15.00	£15.00
Replacement vehicle licence certificate	£15.00	£15.00
Replacement vehicle licence plate	£15.00	£15.00
Replacement vehicle passenger side door Identity sticker	£8.00	£8.00
Replacement Hackney Carriage Tariff Card	£9.00	£9.00

Appendix A- Current and Proposed Fee Structure

FEEES FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVERS, VEHICLES AND OPERATOR LICENCES

VEHICLE LICENCES	CURRENT FEE	PROPOSED FEE
Grant for Hackney Carriage vehicle licence (incl. licence, plate, vehicle compliance test and Taximeter check)	£180.00	£205.00
Renewal for Hackney Carriage vehicle licence (incl. licence, plate and vehicle compliance test)	£270.00 reduced to £180.00 when complete application received early	£307.50 reduced to £205.00 when complete application received seven days before expiry
Grant for Private Hire vehicle licence (incl. licence, plate and vehicle compliance test)	£165.00	£145.00
Renewal for Private Hire vehicle licence (incl. licence, plate and vehicle compliance test)	£247.50 reduced to £165.00 when complete application received early	£217.50 reduced to £145.00 when complete application received seven days before expiry
Grant for Private Hire - Special Events vehicle licence (incl. licence, two plates and vehicle compliance test)	£180.00	£160.00
Renewal for Private Hire vehicle - Special Events licence (incl. licence, plate and vehicle compliance test)	£270.00 reduced to £180.00 when complete application received early	£240.00 reduced to £160.00 when complete application received seven days before expiry
Limousine vehicle licence (incl. licence, plate and vehicle compliance test)	£210.00	£190.00
Renewal for Limousines vehicle licence (incl. licence, plate and vehicle compliance test)	£315.00 reduced to £210.00 when complete application received early	£285.00 reduced to £190.00 when complete application received seven days before expiry
One-off backing plate fee	£15.00	£15.00
Vehicle Test Fee (Hackney Carriage/Private Hire)	£26.40 at cost	£15.00 at cost
Additional MOT (booked at the same time as above test)	£3.00 at cost	£ 5.00 at cost
Vehicle Test Fee (Limousine only)	£60.00 at cost	£60.00 at cost
Exception Conditions Licence (4 month extension)	£72.55	£75.00
PERMANENT TRANSFER FEES	CURRENT FEE	PROPOSED FEE
Transfer of existing Hackney Carriage licence to another Hackney Carriage vehicle	£90.00 (£60.00 excluding test)	£100.00 (£60.00 excluding test & license plate)
Transfer of existing Private Hire licence to another Private Hire vehicle	£85.00 (£55.00 excluding test)	£75.00 (£45.00 excluding test & plate)
Transfer of existing Special Events licence to another Special Events vehicle	£100.00 (£70.00 excluding test)	£90.00 (£45.00 excluding test & plates)
Transfer of existing Limousine licence to another Limousine licence	£130.00 (£70.00 excluding test)	£135.00 (£45.00 excluding test & plates)
Transfer of vehicle to another proprietor	£40.00	£45.00

Appendix A- Current and Proposed Fee Structure

TEMPORARY TRANSFER FEE – Insurance Companies (includes retest for newly fixed vehicle)	CURRENT FEE	PROPOSED FEE
Transfer of existing Hackney Carriage licence to another Hackney Carriage	£135.00 (£120.00 excl. backing plate)	£130.00 (£115.00 excl. backing plate)
Transfer of existing Private Hire licence to another Private Hire vehicle (excluding Special Events and Limo's)	£130.00 (£115.00 excl. backing plate)	£105.00 (£90.00 excl. backing plate)
Transfer of existing Private Hire - Special Events licence to another Private Hire - Special Events vehicle	£145.00 (£130.00 excl. backing plate)	£120.00 (£105.00 excl. backing plate)
Transfer of existing Private Hire - Limousine licence to another Private Hire - Limousine licence	£205.00 (£190.00 excl. backing plate)	£210.00 (£195.00 excl. backing plate)

Appendix B – Costing Analysis: Direct staff time recordings compared to income. Please note income for physical items and services provided by third parties have not been included as these are recovered at cost

License Type	Drivers	Hackney Carriage	Private Hire	Operators	Total hrs/cost for 3 months	Total hours/cost year (pro rata)
Staff time (Hours)	174.25	183.5	71	27.75	456.5	1826
Total Cost (3 months)	£3126	£3412	£1214	£609	£8361	£33,444
Total Cost-pro rata (12 months)	£12,504	£13,648	£4856	£2436	N/A	£33,444
Total Income from time based functions (pro rata-12 months)	£17,726	£15,102	£7,100	£2,240	N/A	£42,168
Income as a (time) ratio of direct staff costs.	142%	110%	146%	92%	N/A	N/A
Current numbers of licenses (Sept 2013)	163	79	56	25	N/A	N/A
Income as a (time) ratio of direct staff costs, on proposed fees. (estimate)	129%	122%	123%	126%	N/A	N/A
Central Support Service Charge (Net indirect Costs)	£17,050	£14,602	£6,829	£2155	N/A	£40,562
Percentage of total cost recovered *	60%	53%	61%	49%	N/A	60%

* Please note these percentages are worked out using the cost from the time recording exercise a proportion of the Central Support Service Charge (Net indirect costs) based on the same proportions and the income pro rata from the last six months of 12/13. The total figure is calculated on the 12/13 outturn.

Appendix C - Budget Outturn 2012-13

Taxi Licensing	Budget	Outturn	Variance Against Budget
	£	£	£
	£	£	£
Direct Cost			
Employees	30,840	38,067	7,227
Premises	0	0	0
Transport	1,560	1,543	(17)
Supplies and Services	13,360	9,257	(4,103)
Third Party Payments	0	0	0
Transfer Payments	0	0	0
	45,760	48,867	3,107
Direct Income			
External Income	(47,420)	(53,757)	(6,337)
Indirect Income- Appropriations	0	0	0
	(47,420)	(53,757)	(6,337)
Net Direct Cost	(1,660)	(4,890)	(3,230)
Indirect Costs			
Employees -FRS17	210	-110	-320
Central Support Charges	57,700	60,032	2,332
Capital Charges	0	0	0
Indirect Income	(21,210)	(19,360)	1,850
Net Indirect costs	36,700	40,562	3,862
Net Expenditure	35,040	35,672	632