

Public Document Pack

Date of meeting Wednesday, 8th January, 2020
Time 7.00 pm
Venue Lancaster Buildings - Lancaster Buildings, Newcastle, Staffs
Contact Geoff Durham 742222



**NEWCASTLE
UNDER LYME**
BOROUGH COUNCIL

Castle House
Barracks Road
Newcastle-under-Lyme
Staffordshire
ST5 1BL

Licensing & Public Protection Committee

AGENDA

PART 1 – OPEN AGENDA

PART 1 - LICENSING

- 1 APOLOGIES**
- 2 DECLARATIONS OF INTEREST IN RELATION TO LICENSING MATTERS**

To receive declarations of interest from Members on items contained within the agenda

- 3 MINUTES OF PREVIOUS MEETING (Pages 5 - 10)**
- 4 LICENSING FEES AND CHARGES 2020/21 (Pages 11 - 16)**

FIVE MINUTE BREAK

PART 2 - PUBLIC PROTECTION (OPEN)

- 5 DECLARATIONS OF INTEREST IN RELATION TO PUBLIC PROTECTION MATTERS**

To receive declarations of interest from Members on items contained within the agenda

- 6 TAXI FEES AND CHARGES 2020/21 (Pages 17 - 22)**

PART 3 - PUBLIC PROTECTION (CLOSED)

- 7 DISCLOSURE OF EXEMPT INFORMATION**

To resolve that the public be excluded from the meeting during consideration of the attached report, because it is likely that there will be disclosure of exempt information as defined in paragraphs 1, 2 and 7 in Part 1 of Schedule 12A of the Local Government Act 1972.

8 MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETINGS (Pages 23 - 34)

To consider the minutes of the Public Protection Sub-Committees which have met since the previous Licensing and Public Protection Committee.

9 APPEAL OUTCOME - MR TK (Pages 35 - 38)

10 APPEAL OUTCOME - MR MI (Pages 39 - 40)

11 APPEAL OUTCOME - MR RA (Pages 41 - 42)

12 URGENT BUSINESS

To consider any business which is urgent within the meaning of Section 100B (4) of the Local Government Act 1972

Members: Councillors M. Olszewski (Chair), Hutton (Vice-Chair), J. Cooper, S. Dymond, T. Kearon, A. Parker, K. Robinson, S. Sweeney, J. Walklate, J Waring, G White, G Williams, J Williams, R. Wright and G. Heesom

Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.

Meeting Quorums :- 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.

SUBSTITUTE MEMBER SCHEME (Appendix 9, Section 4 of Constitution)

The Constitution provides for the appointment of Substitute members to attend Committees. The named Substitutes for this meeting are listed below:-

Substitute Members:	Miss J Cooper	M. Reddish
	T. Johnson	J Tagg
	P. Northcott	S. Moffat
	B. Proctor	S. Burgess

If you are unable to attend this meeting and wish to appoint a Substitute to attend in your place you need to:

- Identify a Substitute member from the list above who is able to attend on your behalf
- Notify the Chairman of the Committee (at least 24 hours before the meeting is due to take place) NB Only 2 Substitutes per political group are allowed for each meeting and your Chairman will advise you on whether that number has been reached

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

NOTE: THERE ARE NO FIRE DRILLS PLANNED FOR THIS EVENING SO IF THE FIRE ALARM DOES SOUND, PLEASE LEAVE THE BUILDING IMMEDIATELY THROUGH THE FIRE EXIT DOORS.

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LICENSING & PUBLIC PROTECTION COMMITTEE

Tuesday, 22nd October, 2019
Time of Commencement: 7.00 pm

Present: Councillor Mark Olszewski (Chair)

Councillors:	Hutton	J. Walklate	J Williams
	S. Dymond	J Waring	R. Wright
	A. Parker	G White	G. Heesom
	K. Robinson	G Williams	Miss J Cooper

Officers:	Matthew Burton	Licensing Administration Team Manager
	Geoff Durham	Mayor's Secretary / Member Support Officer
	Nesta Barker	Head of Environmental Health Services
	Anne-Marie Pollard	Solicitor

Also in attendance:

1. **APOLOGIES**

Apologies were received from Councillors' John Cooper, Kearon and Sweeney.

2. **DECLARATIONS OF INTEREST IN RELATION TO LICENSING MATTERS**

There were no declarations of interest stated.

3. **MINUTES OF PREVIOUS MEETING**

Resolved: That, subject to the recording of Councillor Hutton's apologies, the Minutes of the meeting held on 20 August, 2019 be agreed as a correct record.

4. **LOCAL GOVERNMENT ASSOCIATION HANDBOOK FOR COUNCILLORS - LICENSING ACT 2003 UPDATE**

Consideration was given to a report informing Members of the updated guidance document in respect of the Licensing Act, 2003.

A copy of the document was appended to the report.

Members' attention was drawn to paragraph 1.4 of the report which outlined the updated areas.

Resolved: That the updated document be noted.

5. **LOCAL GOVERNMENT ASSOCIATION HANDBOOK FOR COUNCILLORS - GAMBLING ACT 2005**

Consideration was given to a report informing Members of the guidance document in respect of the Gambling Act, 2005.

A copy of the document was appended to the report.

Members' attention was drawn to paragraph 1.3 of the report which outlined the areas covered by the document.

Councillor Hutton made reference to page 22 of the document (page 88 of the agenda) and asked officers to assure that the maximum possible fee was being charged. Gambling addiction was a serious problem and the council needed to act responsibly.

The Council's Licensing Administration Team Manager, Matt Burton assured that either the maximum or as close to the maximum was currently being charged and advised Members that a report would be going to the December meeting of this Committee outlining proposed fees and charges for the next financial year.

Resolved: That the contents of the document be noted.

6. REVIEW AND UPDATE OF RESPONSIBILITIES AND TERMS OF REFERENCE OF THE LICENSING SUB-COMMITTEE

Consideration was given to a report requesting that Members note its contents and that they recommend to the Constitution and Member Support Working Group and Council that the updated responsibilities and terms of reference of the Licensing Sub-Committee be approved.

The Council's Head of Environmental Health Services, Nesta Barker advised that a recent review of the Council's Constitution had revealed that the terms of reference for the Licensing Sub-Committee were not included.

Members' attention was drawn to Appendix 1 which showed the current document with tracked changes.

The Chair explained that the previous arrangements had been for Licensing & Public Protection to make any recommendations directly to Council, but confirmed that this now was also reviewed by the Constitution and Member Support Working Group prior to Council.

Resolved: (i) That the report be noted.
(ii) That it be recommended to the Constitution and Member Support Working Group and Full Council that the contents be approved and included within the Council's Constitution.

7. MINUTES OF LICENSING SUB COMMITTEE MEETINGS

Resolved: That the Minutes of the meetings held on 14 August, 24 September and 2 October be received.

8. DECLARATIONS OF INTEREST IN RELATION TO PUBLIC PROTECTION MATTERS

There were no declarations of interest stated.

9. **THE AIR QUALITY (TAXI AND PRIVATE HIRE VEHICLES DATABASE) (ENGLAND AND WALES) REGULATIONS 2019**

Consideration was given to a report advising Members of a new statutory requirement for all Local Authorities to submit information to the Department for Environment, Food and Rural Affairs (DEFRA) in relation to all Hackney Carriage and Private Hire Vehicles licensed by them.

Members' attention was drawn to Paragraph 1.1 of the report.

The Chair queried the reference to 'a regular basis' (fourth line, paragraph 1.1) and asked what the frequency was.

Mrs Barker advised that this was weekly, however, DEFRA's preferred method would be by Application Programming Interface but this was unlikely to be ready by the end of 2019. This would allow systems to 'talk to each other'.

- Resolved:**
- (i) That the new statutory provisions of the Air Quality (Taxi and Private Hire Vehicles Database) (England and Wales) Regulations, 2019 and associated Statutory Guidance, be noted.
 - (ii) That delegated authority is granted to the Head of Environmental Health Services to sign the memorandum of understanding.

10. **AMENDMENTS TO SCHEME OF DELEGATION FOR LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 AND TOWN POLICE CLAUSES ACT 1847**

Consideration was given to a report seeking amendment and approval of the scheme of delegation in respect of taxi and private hire licensing.

Members' attention was drawn to the table at paragraph 2.3 of the report. The main change was that of Executive Director – from Regeneration and Development to Operational Services.

In addition, a number of officer delegations had changed – extending the number of officers who could undertake functions. This change was proposed to allow any urgent actions to be undertaken immediately should the Head of Environmental Health Services be unavailable.

Concerns were raised about placing more power down the chain of command but Mrs Barker assured Members that herself and Mr Burton took advice on unsafe vehicles from the garage staff and therefore the Garage Manager did have expert knowledge to take a vehicle off the road if necessary.

Councillor Hutton asked the Council's Solicitor, Ann-Marie Pollard if a vehicle is let out of the garage and considered dangerous and was then involved in a fatal accident, could the Council be held liable?

Ms Pollard advised that there was a risk both ways in that if the driver went to court over the vehicle being taken off the road and won an appeal, the council could be liable for costs.

Resolved: That the Constitution and Member Support Working Group and Council be advised that this Committee supports and recommends the amendments to the scheme of delegation.

11. VEHICLE DOOR SIGNAGE

Consideration was given to a report seeking approval of the final signage that all Hackney Carriage and Private Hire Vehicles will have to display from 1 November, 2019.

Reference was made to Appendix L of the recently approved Policy document. The adhesive signs must be fixed permanently to the rear doors of the vehicle for the duration of its life as a taxi.

Members were asked to approve the size, wording and design of the signs.

Members debated and considered the different options and agreed upon the following:

- That the size of the signs be 29.5 cm long by 12.7 cm deep.
- That the wording in lower case on the sign be in bold font.
- That the wording of the Private Hire Vehicle sign be 'Must be pre-booked via an Operator'.
- That the wording of the Hackney Carriage Vehicle sign be 'Council set metered fares'.
- That the colours be green background with white lettering for Private Hire and white background with black lettering for Hackney Carriages. The Council's crest should be appropriately sized and positioned at the discretion of the officers.

Resolved: That the vehicle door signage for Private Hire and Hackney Carriage Vehicles be approved in accordance with the five bullet points above.

12. DISCLOSURE OF EXEMPT INFORMATION

Resolved:- That the public be excluded from the meeting during consideration if the following matter because it is likely that there will be disclosure of exempt information as defined in paragraphs 1,2 and 7 contained within Part 1 of Schedule 12A of the Local Government Act, 1972

13. MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETINGS

Resolved: That the Minutes of the meetings held on 21 August, 28 August, 11 September and 2 October, 2019 be received.

14. **URGENT BUSINESS**

There was no urgent business.

CCOUNCILLOR M OLSZEWSKI
Chair

Meeting concluded at 7.55 pm

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO PUBLIC PROTECTION COMMITTEE

8 January 2020

FEES TO BE CHARGED FOR THE LICENSING OF SCRAP METAL DEALERS, GAMBLING, SEXUAL ENTERTAINMENT VENUE LICENSING 2020-21

Submitted by: Head of Environmental Health & Licensing Administration Team
Manager

Portfolio: Finance & Efficiency

Ward(s) affected: ALL

Purpose of the Report

For Members to consider the fees to be charged in relation to the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venues.

Recommendations

That Committee agree the fees to be charged for the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venues for 2020/21.

Reasons

Decisions relating to the setting of non-statutory fees and charges for licensing have been delegated from Council to Licensing Committee.

1. **Background**

1.1 The approval of certain fees and charges relating to the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venues licensing regimes are Council functions.

1.2 Council at their meeting on 22nd February 2017 delegated this function to Licensing Committee.

Gambling:

1.3 The Gambling Act 2005 allows Licensing Authorities to set their own fees for premises licenses, subject to maximum levels which have been specified by Central Government.

1.4 The Councils Gambling Policy was implemented in January 2019, following approval from the Licensing Committee and Council.

Sexual Entertainment Venues:

1.5 The Local Government (Miscellaneous Provisions) Act 1982 ('the Act') introduced a licensing regime to control sex establishments. The Council adopted schedule 3 of the Act on the 31st March 2010 and the schedule took effect on the 3rd August 2010. This means the Council can control and regulate the operation of certain kinds of sex establishments within its area.

No sex establishment can operate unless it has obtained a licence from the Council. Any licence may contain conditions that will restrict how that sex establishment may trade.

- 1.6 The setting of fees for the licensing of sex establishment remains with the Local Authority. The licence is for a one year period.

Scrap Metal Dealers:

- 1.7 The Scrap Metal Dealers Act 2013 ('the SMDA13') introduced a licensing regime to control Scrap Metal Dealers, replacing the registration scheme used previously. The SMDA13 allows Licensing Authorities to set their own fees for both Site and Collectors licences.

2. **Issues**

2.1 **The European Services Directive states (Art 12.2):**

“Authorisation procedures and formalities shall not be dissuasive and shall not unduly complicate or delay the provision of the service. They shall be easily accessible and any charges which the applicants may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures in question and shall not exceed the cost of the procedures”

The Directive includes specific requirements that apply to the charging of fees. Charges must be reasonable and proportionate to the cost of the processes associated with a licensing scheme.

Councils must not use fees covered by the Directive to make a profit or act as an economic deterrent to deter certain business types from operating within an area.

2.2 **Guidance for Local Authorities on the Provision of Service Regulations States (2nd Edition June 2009 Para 12d):**

“Local Authorities must set fees that are proportionate to the effective cost of the procedure dealt with. As costs vary from region to region, central advice on the level of fees will not be appropriate. Local Authorities will need to bear in mind the threat of a legal challenge should the service provider feel that the level of fees are being used as an economic deterrent or to raise funds for local authorities Enforcement costs should not be assimilated with the application fee. This is to forestall the possibility of an unsuccessful applicant seeking legal remedy due to part of his fees having been used to subsidise his successful competitors.”

- 2.3 All proposed license fees and charges are detailed in table below:

Licences:	2019/20 fees	2020/21 Proposed Fee	Difference
General			
Sex establishments - application fee	3,100.00	3,193.00	3%
Sex establishments - Renewal	3,100.00	3,193.00	3%
Sex establishments - variation	1,050.00	1,082.00	3%
Sex establishments – transfer	1,050.00	1,082.00	3%
Scrap metal dealer site licence	265.00	273.00	3%
Scrap metal dealer collectors licence	210.00	216.00	3%
Gambling Act 2005			
Lotteries - application fee	40.00	40.00	All Frozen or

Lotteries - annual fee	20.00	20.00	Set by Statute unless stated otherwise
Bingo - application fee	3,500.00	3,500.00	
Bingo - annual fee	1,000.00	1,000.00	
Bingo - application to vary	1,750.00	1,750.00	
Bingo – application for transfer	1,200.00	1,200.00	
Bingo – application to reinstate	1,200.00	1,200.00	
Track betting - application fee	2,500.00	2,500.00	
Track betting - annual fee	1,000.00	1,000.00	
Track betting - application to vary	1,250.00	1,250.00	
Track betting - application to transfer	950.00	950.00	
Track betting – application to reinstate	950.00	950.00	
Betting premises - application fee	3,000.00	3,000.00	
Betting premises - annual fee	600.00	600.00	
Betting premises - application to vary	1,500.00	1,500.00	
Betting premises - application to transfer	1,200.00	1,200.00	
Betting premises – application to reinstate	1,200.00	1,200.00	
Family entertainment centre - application fee	2,000.00	2,000.00	
Family entertainment centre - annual fee	750.00	750.00	
Family entertainment centre - application to vary	1,000.00	1,000.00	
Family entertainment centre - application to transfer	950.00	950.00	
Family entertainment centre – application to reinstate	950.00	950.00	
Adult gaming centre - application fee	2,000.00	2,000.00	
Adult gaming centre - annual fee	1,000.00	1,000.00	
Adult gaming centre - application to vary	1,000.00	1,000.00	
Adult gaming centre - application to transfer	1,200.00	1,200.00	
Adult gaming centre – application to reinstate	1,200.00	1,200.00	
Copy of any of the above licences (lost, stolen, damaged)	25.00	25.00	
Notice of Intention – 2 or less gaming machines	50.00	50.00	
Licensed Premises Gaming Machine Permits – more than 2 machines	150.00	150.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Variation	100.00	100.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Transfer	25.00	25.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Annual Fee	50.00	50.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Change of Name	25.00	25.00	
Licensed Premises Gaming Machine Permits – more than 2 machines – Copy (lost, stolen, damaged)	15.00	15.00	
Club Gaming/Club Machine Permits –	200.00	200.00	

New/Renew			
Club Gaming/Club Machine Permits for holders of Club Premises Certificates (under LA03) – New/Renew	100.00	100.00	
Club Gaming/Club Machine Permit – Annual Fee	50.00	50.00	
Club Gaming/Club Machine Permit – Variation	100.00	100.00	
Club Gaming/Club Machine Permit – Copy (lost, stolen, damaged)	15.00	15.00	
UFEC (Unlicensed family entertainment Centre – 10 year licence)	300.00	300.00	
Prize Gaming Permit – New/Renewal	300.00	300.00	
Prize Gaming Permit – Change of Name	25.00	25.00	
Prize Gaming Permit – Copy (lost, stolen, damaged)	15.00	15.00	
Temporary Use Notice (TUN)	125.00		
Casino Small – New application	6,300.00	6,930.00	10%
Casino Small – Annual Fee	3,150.00	3,465.00	10%
Casino Small - Variation	2,100.00	2,310.00	10%
Casino Small – Application for Transfer	1,350.00	1,485.00	10%
Casino Small – application to reinstate	NEW	1,485.00	10%

3. **Proposal**

- 3.1 That Committee agree the fees to be charged for the licensing of Scrap Metal Dealers, Gambling and Sexual Entertainment Venue Licensing for 2020/2021.

4. **Reasons for Preferred Solution**

- 4.1 The locally set fees can be used to cover the cost of the following:

Administration – This could cover basic office administration to process the licence application, such as resources, photocopying, postage or the cost of handling fees through the accounts department. This could also include the costs of specialist licensing software to maintain an effective database, and printing licences.

Initial visit/s – This could cover the average cost of officer time if a premises visit is required as part of the authorisation process. Councils will need to consider whether the officer time includes travel. It would also be normal to include ‘on-costs’ in this calculation. Councils will need to consider whether ‘on-costs’ include travel costs and management time.

Third party costs – Some licensing processes will require third party input from experts.

Liaison with interested parties – Engaging with responsible authorities and other stakeholders will incur a cost in both time and resources.

Management costs – Councils may want to consider charging an average management fee where it is a standard process for the application to be reviewed by a management board or licensing committee. However, some councils will include management charges within the ‘on-costs’ attached to officer time referenced below.

Local democracy costs – Councils may want to recover any necessary expenditure in arranging committee meetings or hearings to consider applications.

On costs – including any recharges for payroll, accommodation, including heating and lighting, and supplies and services connected with the licensing functions. Finance teams should be able to provide a standardised cost for this within each council.

Development, determination and production of licensing policies – The cost of consultation and publishing policies can be fully recovered.

Web material – The EU Services Directive requires that applications, and the associated guidance, can be made online and councils should effectively budget for this work.

Advice and guidance – This includes advice in person, production of leaflets or promotional tools, and online advice.

Setting and reviewing fees – This includes the cost of time associated with the review, as well as the cost of taking it to a committee for approval.

5. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

5.1 In line with the Council's objectives –

- Local services that work for local people
- Growing our people and places
- A healthy, active and safe borough
- A town centre for all

6. **Legal and Statutory Implications**

6.1 **Hemming v Westminster**

The degree to which fees and processes are proportionate has been tested in a legal challenge brought against the fee charged by Westminster City Council for licensing sex establishments. The case established a number of key points about setting fees under the Services Directive.

In *Hemming v Westminster*, the Court of Appeal ruled that the fees set must not exceed the costs of administering the licensing regime. This means the council was no longer able to include the cost of enforcement against unlicensed sex establishment operators when setting the licence fee, although the cost of visits to licensed premises to monitor compliance could be recovered through fees.

The judgement found that the annual reviews conducted by an officer of Westminster City Council were no substitute for determinations by the council. The judge rejected the council's submission that the fee had been fixed on an open-ended basis in 2004 so that the fee rolled over from one year to the next. Westminster City Council was consequently ordered to repay fees charged over that period.

Annual reviews allow for the fine tuning of fees and allow councils to take steps to avoid either a surplus or deficit in future years. This will not immediately benefit licence holders where the licence has been granted for a number of years and paid for in a lump sum, but will ensure new entrants to the licensing scheme are charged appropriately.

Where fees charged result in a surplus, *Hemming v Westminster* stated that this surplus must be used to reduce the fees charged in the following year. It is possible to extend the

reinvestment of the surplus over more than one year, but this will need careful consideration about whether contributors may leave the licensing system over that period and therefore lose out on the return. Deficits can similarly be recovered, although where there is a significant deficit, councils may want to consider how recovery can be undertaken over more than one year so as not to financially harm otherwise viable businesses.

The case of R v Tower Hamlets LBC (1994) is also relevant, as the High Court indicated that “a council has a duty to administer its funds so as to protect the interests of what is now the body of council tax payers”.

7. **Equality Impact Assessment**

7.1 Not applicable

8. **Financial and Resource Implications**

8.1 Should a challenge be made in relation to the fee level as detailed in the Hemming v Westminster there could be detrimental financial implications for the Council

9. **Major Risks**

9.1 As detailed under Legal and Statutory Implications

10. **Sustainability and Climate Change Implications**

10.1 Not applicable

11. **Key Decision Information**

11.1 Not applicable

12. **Earlier Council/Committee Resolutions**

12.1 The Council adopted schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982 on 31st March 2010 which came into effect on 3rd August 2011.

12.2 Council delegated the function of setting fees and charges to Licensing Committee on 22nd February 2017.

13. **List of Appendices**

13.1 None

14. **Background Papers**

14.1 LGA Guidance on Local Fee Setting

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO PUBLIC PROTECTION COMMITTEE

8 January 2020

PRIVATE HIRE & HACKNEY CARRIAGE FEES & CHARGES 2020/2021

Submitted by: Head of Environmental Health & Licensing Administration Team Manager

Portfolio: Finance & Efficiency

Ward(s) affected: All

Purpose of the Report

To request the Public Protection Committee to consider the proposed taxi and private hire fees prior to consultation, as referred to in the report.

Recommendations

- a) That the Public Protection Committee considers the proposed fees.
- b) That the proposed fees be sent out for consultation.
- c) That following consultation a further report is brought to Committee.

Reasons

The setting of Private Hire and Hackney carriage fees is a Council function

1. Background

1.1 Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 states the following in relation to Operator and Vehicle licence fees:

(1) Subject to the provisions of subsection (2), a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part:

- (a) 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;
- (b) the reasonable cost of providing hackney carriage stands; and
- (c) 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) The fees chargeable under this section shall not exceed—

- (a) for the grant of a vehicle licence in respect of a hackney carriage, twenty-five pounds;

- (b) for the grant of a vehicle licence in respect of a private hire vehicle, twenty-five pounds; and
- (c) for the grant of an operator's licence, twenty-five pounds per annum;

or, in any such case, such other sums as a district council may, subject to the following provisions of this section, from time to time determine.

(3) (a) If a district council determine that the maximum fees specified in subsection (2) of this section should be varied they shall publish in at least one local newspaper circulating in the district a notice setting out the variation proposed, drawing attention to the provisions of paragraph (b) of this subsection and specifying the period, which shall not be less than twenty-eight days from the date of the first publication of the notice, within which and the manner in which objections to the variation can be made.

(b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of twenty-eight days from the date of the first publication thereof be deposited at the offices of the council which published the notice and shall at all reasonable hours be open to public inspection without payment.

(4) If no objection to a variation is duly made within the period specified in the notice referred to in subsection (3) of this section, or if all objections so made are withdrawn, the variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.

(5) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the variation shall come into force with or without modification as decided by the district council after consideration of the objections.

(6) A district council may remit the whole or part of any fee chargeable in pursuance of this section for the grant of a licence under section 48 or 55 of this Act in any case in which they think it appropriate to do so.

1.2 Section 53(2) of the Local Government (Miscellaneous Provisions) Act 1976 states the following in relation to Driver licence fees:

(2) Notwithstanding the provisions of the Act of 1847, a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, 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.

1.3 The Deregulation Act 2015 amended the Local Government (Miscellaneous Provisions) Act 1976 in relation to the duration of licences for hackney carriage and private hire drivers and private hire operators.

Section 10, subsection 2 of the Deregulation Act 2015 changed the law in such a way as to establish a standard duration of three years for hackney carriage and private hire driver licences. The section specifies that a licence may be granted for a period of less than three year but only in circumstances of an individual case, not because of a blanket policy.

Subsection 3 of the Act changed the law in such a way as to establish a standard duration of five years for a private hire vehicle operator licence. The section specifies that a licence may

be granted for a period of less than five years but only in the circumstances of an individual case, not because of blanket policy.

2. **Proposal:**

2.1 The proposed fees and charges for 2020-21 are:

Private Hire/Hackney Carriage (subject to consultation)	Proposed Fee/Charge 2020-21 (£)
<u>OPERATORS</u>	
1 vehicle	x
2-5 vehicles	x
6-15 vehicles	x
16-25 vehicles	x
26-35 vehicles	x
36-50 vehicles	x
Additional vehicle after 50 vehicles	x
NEW PHO Application fee	£250.00
NEW Add/Remove Director	£38.00
NEW Copy/Replacement Licence	£6.00
NEW Basic DBS	£23.00 (set by DBS)
<u>DRIVERS</u>	
Dual Driver Badge - 3 years	£257.00
Change of address	£16.00
Replacement badge	£12.00
NEW Replacement vehicle badge	£12.00
Reissue/replacement badge (with amended details)	£26.00
DBS (CRB check)	£40.00 (set by DBS)
DBS (CRB check) online	£60.34 (set by DBS and provider)
Safeguarding training	£38.00
Fail to attend Safeguarding Training	£38.00
Exemption certificates	£12.00
Knowledge test	£25.00
NEW Fail to attend Knowledge Test	£25.00
Replacement Safeguarding training certificate	£6.00
NEW Change of Name	£16.00
NEW Replacement vehicle badge holder and	£5.00
NEW Disability Training	£35.00+VAT
NEW Disability Training (fail to attend)	£35.00+VAT
NEW DE Training replacement cert	£0.00(met by provider)
NEW Copy of Paper Licence	£6.00

<u>VEHICLES</u>	
Hackney carriage - vehicles	x
Private hire – vehicles	x
Transfer of vehicle	£38.00
Change of vehicle registration	£43.00
Failure to attend for vehicle test	£104.00
Retest	£42.00
Replacement plate carrier – front	£8.00
Replacement plate carrier – rear	£10.00
Replacement vehicle plate - front	£7.00
Replacement vehicle plate - rear	£10.00
Replacement vehicle sticker signage	£5.00
Copy of paper part of licence	£6.00
Exception Vehicle Test	x
6 Monthly Test following an Exception Test	x
NEW - Change of Vehicle Colour	£43.00
NEW HCV test	£108.00
NEW HCV test 10yrs+	£108.00
NEW PHV test	£108.00
NEW PHV test 10yrs+	£108.00
NEW - HCV application fee	£230.00
NEW - PHV application fee	£228.00
NEW - Basic DBS	£23.00 (set by DBS)
NEW Change of Name/Address	£38.00
NEW Spot check	£25.00
NEW Replacement Internal Plate	£7.00

2.2 It is recommended that the fees are set in line with the provisions of the 1976 Act, the Local Government Association Guidance on setting fees, the Council's newly implemented taxi licensing policy and the principles outlined in section 4.3 below. A number of new fees have been introduced to ensure that the Council is recovering costs for all applications that can be made.

3. **Reason for Proposed**

- 3.1 a) That the Public Protection Committee considers the proposed fees.
b) That the proposed fees be sent out for consultation.
c) That following consultation a further report is brought to Committee

4. **Options Considered**

- 4.1 The Council is required to set fees for private hire and hackney carriage licenses.

5. Legal and Statutory Implications

- 5.1 The Local Government (Miscellaneous Provisions) Act 1976 contains the legal provisions and process relating to the setting of fees, this is detailed in sections 1.1 and 1.2 of this report.

6. Equality Impact Assessment

- 6.1 Not applicable

7. Financial and Resource Implications

- 7.1 The legislative background in relation to this report can be found in the Local Government (Miscellaneous Provisions) Act 1976, sections 53(2) and 70.
- 7.2 There will be financial implications for the Council if full cost recovery is not achieved.
- 7.3 The fees can be used to cover the cost of the following:

Administration – This could cover basic office administration to process the licence application, such as resources, photocopying, postage or the cost of handling fees through the accounts department. This could also include the costs of specialist licensing software to maintain an effective database, and printing licences.

Initial visit/s – This could cover the average cost of officer time if a premises visit is required as part of the authorisation process. Councils will need to consider whether the officer time includes travel. It would also be normal to include 'on-costs' in this calculation. Councils will need to consider whether 'on-costs' include travel costs and management time.

Third party costs – Some licensing processes will require third party input from experts.

Liaison with interested parties – Engaging with responsible authorities and other stakeholders will incur a cost in both time and resources.

Management costs – Councils may want to consider charging an average management fee where it is a standard process for the application to be reviewed by a management board or licensing committee. However, some councils will include management charges within the 'on-costs' attached to officer time referenced below.

Local democracy costs – Councils may want to recover any necessary expenditure in arranging committee meetings or hearings to consider applications.

On costs – including any recharges for payroll, accommodation, including heating and lighting, and supplies and services connected with the licensing functions. Finance teams should be able to provide a standardised cost for this within each council.

Development, determination and production of licensing policies – The cost of consultation and publishing policies can be fully recovered.

Advice and guidance – This includes advice in person, production of leaflets or promotional tools, and online advice.

Setting and reviewing fees – This includes the cost of time associated with the review, as well as the cost of taking it to a committee for approval.

8. **Major Risks**

8.1 The Council will be open to challenge should the calculation of the fees and charges prove to be contrary to the Act.

8.2 Judicial Review of a decision may be made on the following grounds:

- Ultra vires – no power to levy a particular fee, or fees used to raise revenue unlawfully, or
- Wednesbury rules – decision was unreasonable or irrational

9. **Sustainability and Climate Change Implications**

9.1 Not applicable

10. **Key Decision Information**

10.1 Not applicable

11. **Earlier Cabinet/Committee Resolutions**

11.1 Not applicable

12. **List of Appendices**

12.1 Not applicable

13. **Background Papers**

13.1 LGA Guidance on Local Fee Setting

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A of the Local Government Act 1972.

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