

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO**

**Licensing and Public Protection Committee
17 March 2020**

Report Title: Private Hire & Hackney Carriage Fees & Charges 2020/2021

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

Portfolios: 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 following consultation, as referred to in the report.

Recommendation

- 1. That the Public Protection Committee considers the proposed fees.**
- 2. That the proposed fees be approved for 2020/21**

Reasons

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

1. Background

- 1.1 The approval of certain fees and charges relating to the licensing of Private Hire and Hackney Carriage licensing regimes are Council functions
- 1.2 Council at their meeting on 22nd February 2017 delegated this function to Public Protection Committee.

2. Issues

- 2.1 A report was presented to Public Protection Committee on 8th January 2020 in respect of the proposed fees and charges for Private Hire and Hackney carriage driver, vehicle and operator fees and charges for 2020/21. The committee recommended agreement to the proposals and that the fees and charges should be advertised and a period of consultation undertaken in accordance with the requirements of the Local Government (Miscellaneous Provisions) Act 1976.
- 2.2 The advertisement was placed in the Sentinel newspaper on Friday 10th January 2020 and copies placed at Castle House and Kildgrove Town Hall. The consultation period ran from 10th January until 6th February 2020.

- 2.3 Within the consultation period a total of 159 representations were received in respect of the proposed fees and charges. There were an additional ten letters that had be submitted twice and three that were submitted after the consultation period had closed
- 2.4 Of the 159 representations received 156 were signed copies of the same letter (the template letter), a copy of which is attached as Appendix A. Out of those 156, one was a Private Hire Operator, one a large vehicle rental company, two were from individuals previously licensed as drivers, three were from persons unknown and 147 were from currently licensed drivers.
- 2.5 In addition we received one representation on a greetings card, which is attached as Appendix B and two letters/email which are attached as Appendix C that were different to the 156 template letters. The two letters/emails were from one individual and one jointly submitted by the Newcastle Hackney Carriage and Private Hire Trade Associations.
- 2.6 The template letter states to there is no justification to increase the fees as proposed, and that the cost of administering the service has not increased. The Committee report dated 8th January at para 7.3 it outlines the areas that Council are able to recover fees for. The proposed fees have been calculated to ensure that the Council recovers the full cost of administering the service, whilst bearing in mind the legal provisions in relation to this. The cost of administering the service has increased overall as there are many new provisions for the team to consider, review and administer under the new Council Licensing Policy, and there has been a significant change in the case law enabling Council's to recover fees for enforcement costs against drivers. It is important to note that not all of the proposed fees are increases from 2019/20 fees. Several have reduced or are new fees altogether. These are outlined in table 4.1 below.
- 2.7 The letter from the trade associations is similar to the template letter but with the additional of a Freedom of Information Request which is being dealt with separately.
- 2.8 The Local Government (Miscellaneous Provisions) Act 1976 (sec. 70) 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.”

2.9 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.

2.10 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.

2.11 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.

2.12 **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.

2.13 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.”

3. Proposal

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

Private Hire/Hackney Carriage (subject to consultation)	19-20 fee	Proposed Fee/Charge 2020-21 (£)	Increase/Decrease/Removal/New
<u>OPERATORS</u>			
1 vehicle	187.00	x	Removal
2-5 vehicles	380.00	x	Removal
6-15 vehicles	665.00	x	Removal
16-25 vehicles	1,780.00	x	Removal
26-35 vehicles	2,850.00	x	Removal
36-50 vehicles	3,950.00	x	Removal
Additional vehicle after 50 vehicles	24.00	x	Removal
NEW PHO Application fee	x	£250.00 (replaces the bandings listed above)	New
NEW Add/Remove Director	x	£38.00	New
NEW Copy/Replacement Licence	x	£6.00	New
NEW Basic DBS	x	£23.00 (set by DBS)	New
<u>DRIVERS</u>			
Dual Driver Badge - 3 years	250.00	£257.00	Increase
Change of address	21.00	£16.00	Decrease
Replacement badge	17.00	£12.00	Decrease
NEW Replacement vehicle badge	x	£12.00	New
Reissue/replacement badge (with amended details)	36.50	£26.00	Decrease
DBS (CRB check)	44.00	£40.00 (set by DBS)	Decrease
DBS (CRB check) online	64.50	£60.34 (set by DBS and provider)	Decrease
Safeguarding training	36.50	£38.00	Increase
Fail to attend Safeguarding Training	36.50	£38.00	Increase
Exemption certificates	26.00	£12.00	Decrease
Knowledge test	45.00	£25.00	Decrease
NEW Fail to attend Knowledge Test	x	£25.00	New
Replacement Safeguarding training certificate	5.00	£6.00	Increase
NEW Change of Name	x	£16.00	New

NEW Replacement vehicle badge holder	x	£5.00	New
NEW Disability Training	x	£35.00+VAT	New
NEW Disability Training (fail to attend)	x	£35.00+VAT	New
NEW DE Training replacement cert	x	£0.00(met by provider)	New
NEW Copy of Paper Licence	x	£6.00	New
<u>VEHICLES</u>			
Hackney carriage - vehicles	322.00	x	Removal
Private hire – vehicles	317.00	x	Removal
Transfer of vehicle	47.00	£38.00	Decrease
Change of vehicle registration	47.00	£43.00	Decrease
Failure to attend for vehicle test	114.00	£104.00	Decrease
Retest	41.50	£42.00	Increase
Replacement plate carrier – front	10.00	£8.00	Decrease
Replacement plate carrier – rear	15.00	£10.00	Decrease
Replacement vehicle plate - front	10.50	£7.00	Decrease
Replacement vehicle plate - rear	15.50	£10.00	Decrease
Replacement vehicle sticker signage	3.00	£5.00	Increase
Copy of paper part of licence	11.50	£6.00	Decrease
Exception Vehicle Test	73.00	x	Removal
6 Monthly Test following an Exception Test	125.00	x	Removal
NEW - Change of Vehicle Colour	x	£43.00	New
NEW HCV test	x	£108.00	New
NEW HCV test 10yrs+	x	£108.00	New
NEW PHV test	x	£108.00	New
NEW PHV test 10yrs+	x	£108.00	New
NEW - HCV application fee	x	£230.00	New
NEW - PHV application fee	x	£228.00	New
NEW - Basic DBS	x	£23.00 (set by DBS)	New
NEW Change of Name/Address	x	£38.00	New
NEW Spot check	x	£25.00	New
NEW Replacement Internal Plate	x	£7.00	New

4. **Reasons for Proposed Solution**

4.1 (a) That the Public Protection Committee considers the proposed fees.

(b) That the proposed fees be approved for 2020/21.

5. **Options Considered**

5.1 The Council is required to set fees for private hire and hackney carriage licenses

6. **Legal and Statutory Implications**

6.1 The Council is required to set fees for private hire and hackney carriage licenses

7. Equality Impact Assessment

7.1 The Local Government (Miscellaneous Provisions) Act 1976 contains the legal provisions and process relating to the setting of fees, this is detailed in section 2 of this report.

8. Financial and Resource Implications

8.1 The legislative background in relation to this report can be found in the Local Government (Miscellaneous Provisions) Act 1976, sections 53(2) and 70.

8.2 There will be financial implications for the Council if full cost recovery is not achieved.

8.3 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.

9. Major Risks

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

9.2 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

10. **Sustainability and Climate Change Implications**

10.1 Not applicable

11. **Key Decision Information**

11.1 Not applicable

12. **Earlier Cabinet/Committee Resolutions**

12.1 Public Protection report 8th January 2020

13. **List of Appendices**

13.1 Not applicable

14. **Background Papers**

14.1 LGA Guidance on Local Fee Setting