

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO**

**Licensing and Public Protection Committee
2 November 2021**

PRIVATE HIRE & HACKNEY CARRIAGE FEES & CHARGES 2022/2023

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

Portfolio: **Finance, Town Centre & Growth**

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

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.
- 1.3 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.

1.4 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.

1.5 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.

1.6 **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.

1.7 In December 2019 the Court of Appeal in the case “R (on the application of Abdul Rehman, on behalf of the Wakefield District Hackney Carriage and Private Hire Association) v The Council of the City of Wakefield and The Local Government Association (Intervening) [2019] EWCA Civ 2166” confirmed that there is no general principle that the taxi licensing fee regime should be self-financing and that the costs associated to enforcing the behaviour of licensed drivers could be recovered via the licence fee set under s53(2) LGMPA76. The judgement stated (para 46):

“In any event, we consider that the costs of enforcing the behaviour of licensed drivers can be recovered through the driver’s licence fee under section 53(2). The relevant words in that provision are “the costs of issue and administration”. The costs of “administration” must be something other than, and in addition to, the costs of “issue”. There is no difficulty in interpreting “administration” in its statutory context as extending to administration of the licence after it has been issued. It naturally includes the costs of suspension and revocation, which are events expressly mentioned in Part II of the 1976 Act. Suspension and revocation rest on non-compliance with the requirements and conditions for continuing to hold the licence. As we have said, it would therefore have been obvious to Parliament, when enacting the 1976 Act, that costs would be incurred by the district council in monitoring compliance with such requirements and conditions.”

2. **Proposal:**

2.1 In January 2021 the Committee determined to reject the proposed fees for 2021-22 following public consultation and retain the fees agreed for 2020-21. The Licensing Department have undergone the annual review and fee setting methodology to propose fees for 2022-23. The table at 2.2 shows:

- Column a – The licence/process the fee is for;
- Column b – The 2020-21 and current fee structure;
- Column c – The fees proposed and rejected for 2021-22;
- Column d – This years proposed fees for 2022-23; and
- Column e – the percentage difference between columns b (current) and d (proposed).

2.2 The proposed fees and charges for 2022-23 are:

| a | b | c | d | e |
|--|------------------------------------|---------------------------------|---------------------------------|----------|
| Private Hire/Hackney Carriage (subject to consultation) | Fee/Charge 2020-21 and 2021-22 (£) | Proposed Fee/Charge 2021-22 (£) | Proposed Fee/Charge 2022-23 (£) | % Change |
| <u>OPERATORS</u> | | | | |
| PHO Application fee | £250.00 | £266.00 | £267.00 | 7% |
| Add/Remove Director | £38.00 | £41.00 | £41.00 | 8% |
| Copy/Replacement Licence | £6.00 | £7.00 | £7.00 | 17% |
| Basic DBS | £23.00 (set by DBS) | £23.00 | £23.00 | 0% |
| <u>DRIVERS</u> | | | | |
| Dual Driver Badge - 3 years | £257.00 | £273.00 | £273.00 | 6% |
| Change of address | £16.00 | £17.00 | £17.00 | 6% |
| Replacement badge | £12.00 | £13.00 | £13.00 | 8% |
| Replacement vehicle badge | £12.00 | £13.00 | £13.00 | 8% |
| Reissue/replacement badge (with amended details) | £26.00 | £28.00 | £29.00 | 12% |
| DBS (CRB check) | £40.00 (set by DBS) | £40.00 | £40.00 | 0% |
| DBS (CRB check) online | £60.34 (set by DBS and provider) | £60.34 | £60.34 | 0% |
| Safeguarding training | £38.00 | £39.00 | £33.00 | -13% |
| Fail to attend Safeguarding Training | £38.00 | £39.00 | £33.00 | -13% |
| Exemption certificates | £12.00 | £12.00 | £13.00 | 8% |
| Knowledge test | £25.00 | £27.00 | £25.00 | 0% |
| Fail to attend Knowledge Test | £25.00 | £27.00 | £25.00 | 0% |
| Replacement Safeguarding training certificate | £6.00 | £7.00 | £7.00 | 17% |
| Change of Name | £16.00 | £17.00 | £18.00 | 13% |
| Replacement vehicle badge holder | £5.00 | £5.00 | £5.00 | 0% |
| Disability Training | £35.00+VAT | 35.00+VAT | £35.00 | 0% |
| Disability Training (fail to attend) | £35.00+VAT | 35.00+VAT | £35.00 | 0% |
| DE Training replacement cert | £0.00 (met by provider) | 0.00 (met by provider) | £0.00 | 0% |
| Copy of Paper Licence | £6.00 | £7.00 | £7.00 | 17% |
| <u>VEHICLES</u> | | | | |
| Transfer of vehicle | £38.00 | £41.00 | £41.00 | 8% |
| Change of vehicle registration | £43.00 | £46.00 | £47.00 | 9% |
| Failure to attend for vehicle test | £104.00 | £104.00 | 66.00 | -37% |
| Retest | £42.00 | £42.00 | 30.00 | -29% |
| Replacement plate carrier – front | £8.00 | £9.00 | £9.00 | 13% |
| Replacement plate carrier – rear | £10.00 | £11.00 | £11.00 | 10% |

| | | | | |
|-------------------------------------|---------------------|---------|--------|------|
| Replacement vehicle plate - front | £7.00 | £7.00 | £8.00 | 14% |
| Replacement vehicle plate - rear | £10.00 | £10.00 | £10.00 | 0% |
| Replacement vehicle sticker signage | £5.00 | £5.00 | £5.00 | 0% |
| Copy of paper part of licence | £6.00 | £7.00 | £7.00 | 17% |
| Change of Vehicle Colour | £43.00 | £46.00 | £47.00 | 9% |
| HCV test | £108.00 | £109.00 | 70.00 | -35% |
| HCV test 10yrs+ | £108.00 | £109.00 | 70.00 | -35% |
| PHV test | £108.00 | £109.00 | 70.00 | -35% |
| PHV test 10yrs+ | £108.00 | £109.00 | 70.00 | -35% |
| HCV application fee | £230.00 | £242.00 | 234.00 | 2% |
| PHV application fee | £228.00 | £240.00 | 231.00 | 1% |
| Basic DBS | £23.00 (set by DBS) | £23.00 | £23.00 | 0% |
| Change of Name/Address | £38.00 | £41.00 | £41.00 | 8% |
| Spot check | £25.00 | £26.00 | 19.00 | -24% |
| Replacement Internal Plate | £7.00 | £8.00 | £7.00 | 0% |

2.3 It is recommended that the fees are set in line with the provisions of the 1976 Act, the Local Government Association fee setting guidance, the Council's taxi licensing policy and the principles outlined in section 7.3 below.

2.4 The majority of the fees have increased due to the two year time frame when they were last set, but all of the fees that relate to vehicle testing have been dramatically reduced. It should be noted that due to changes within the service and efficiencies that have been made the total cost to licence vehicles will be reduced by £34.00 (£338.00 to £304.00) for Hackney Carriages and £35.00 (£336.00 to £301.00) for Private Hire which equates to just over 10%.

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 for 2022/2023. The fees proposed are based on cost recovery.

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 1.1-1.7 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.

Enforcement – This includes action required when investigating and enforcing against licensed drivers, vehicle proprietors and private hire operators.

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