

Licensing Committee



15 December 2022

Title	Review and Setting of Fees & Charges for the licensing of Hackney Carriages, Private Hire, and Private Hire Operators
Purpose of the report	To make a decision
Report Author	Lucy Catlyn, Principal Licensing Officer
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	Not applicable
Corporate Priority	Recovery, Service Delivery
Recommendations	It is recommended that: Members consider the proposed fees and either a) Confirm agreement with the proposed taxi and private hire fees and charges set out at Appendix A; or b) Agree amended fees following consideration of consultation feedback
Reason for Recommendation	In accordance with the Constitution, Committee is asked to approve the Licensing Fees for Taxi and Private Hire Licensing.

1. Summary of the report

- 1.1 In accordance with Section 70 (3) of the Local Government (Miscellaneous Provisions) Act 1976, the Council is required to undertake a statutory 28-day consultation when variations to operators and vehicle licence fees are proposed.
- 1.2 The proposed fees were considered by the Licensing Committee and were approved for consultation purposes at a meeting on 18 October 2022. These fees have been set out, based on estimated officer time, and including permitted costs. The proposed fees are attached at **Appendix A**.
- 1.3 An advert was published in the Surrey Advertiser on 28 October 2022 to notify the public of the new proposed fees. The advert was also advertised at the Council Offices and on the Council's website.
- 1.4 All licence holders were contacted by email on 28 October 2022 to seek their views on the proposed hackney carriage and private hire licence fees.
- 1.5 The last day for comments on the consultation was 25 November 2022.

2. Objections following statutory consultation

- 2.1 The Licensing Authority has received three objections from licence holders for consideration by the committee. These are attached at **Appendix B**. No

comments or objections were received from the public. A summary of the objections received is set out below:

Objection One	<ul style="list-style-type: none"> • The respondent states that they believe the fee is in the best interest of the Council only and disregards the financial effects this has on taxi drivers. • The respondent states that the Council have not increased the hackney carriage meter tariffs in the current financial climate. • The respondent states there is no taxi sign for the main side of Staines-Upon-Thames railway station. • There is a lack of work and a suggestion that the Council is not giving taxi jobs.
Objection Two	This is the same as objection one.
Objection Three	The respondent states that the Council have not increased the hackney carriage meter tariffs and the rise in fees since a tariff change in 2015.

- 2.2 In response to the trade’s request for a fare chart review. Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 permits the Council to fix the fares. The Licensing Authority will be reviewing the hackney carriage fare tariffs in 2023. This will be brought to the Licensing Committee and public/trade consultation.
- 2.3 The Licensing Authority has contacted South West Trains by email to enquire about the missing taxi signage at the train station. No reply was received to our communications. Licensing Officers have since visited the station and they have agreed to reinstate the signage. There has been no timescale supplied. The land is privately owned.
- 2.4 The Licensing Authority’s primary role is to protect the public. Drivers can take bookings within the remit of their licence and are not restricted to only work for one operator. For clarification purposes, the Council has not received an Operator licence application from Uber.
- 2.5 Fees for vehicle and operators’ licences – the Local Government (Miscellaneous Provisions) Act 1976 Section 70 (5) states “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”.
- 2.6 Objections have been made and not withdrawn. Therefore, the Committee must consider the objections and set a further date, on which the fees shall come into force, with or without modifications, no later than **25 January 2023**.

3. Options analysis and proposal

- 3.1 The Committee may after consideration of the objections:

- a) Make no changes to the proposed fees and approve and set a date for the new fees to come into force. **(This is the preferred option and keeps the wheelchair discount).**
- b) Make modification to the proposed fees and approve and set a date for the new fees to come into force.

4. Financial Implications

- 4.1 Government policy guidance recommends that licence fees are based on full cost recovery, thereby ensuring that taxpayers are not subsidising licensed trades. Lower fees would mean that the Council is not recovering its costs associated with the provision of hackney carriages, private hire, and private hire operator licensing, and the budget would be in deficit. Higher fees may result in a profit, and this would be potentially unlawful.
- 4.2 The Licensing Committee agreed at the meeting on 18 October 2022 not to charge for all aspects of regulatory work or for Licensing Sub Committee hearings undertaken by the Licensing Service for this financial year due. This was owing to the likely cost of living impact on the taxi trade and the reduced income they received during the COVID-19 pandemic.
- 4.3 For the financial year 2023/24 it is proposed that a proportion of the costs for any Licensing Sub-Committees held for Hackney Carriage and Private Hire are included in the application fee for renewals and new drivers, together with a proportion of costs for the regulatory work and amendments to the Taxi and Private Hire Licensing Policy. This will allow for a stepped increase of taxi fees in subsequent years.

5. Legal Implications

- 5.1 The Council have fully reviewed the costs associated with granting, renewing, and maintaining compliance in line with legislation and case law.
- 5.2 Section 53 of the Act specifies that the costs related to issue and administration of licences can be recovered in driver's licence fees. In respect of vehicle and operator licences.
- 5.3 Section 70 specifies that the reasonable cost of inspecting vehicles, the reasonable cost of providing hackney carriage stands and any reasonable administrative costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles can be included in the fees.
- 5.4 The legislation does not require the Council to make a precise calculation so as to arrive at an income which exactly meets the cost of the administration of the various licences. Councils are required, however, to take a reasonable and proportionate approach and should aim to set a fee level that is sufficient to cover the cost but not make a surplus.
- 5.5 Taxi fees are required by law to be cost neutral thereby reducing the risk of local tax payers subsidising businesses, and thus ensuring that businesses do not pay more than they should.

- 5.6 The fixing of fees proposed in the attached fee schedules at Appendix B for is a function of the Licensing Committee as laid out in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 5.7 The judgment in the Court of Appeal case of R (app Rehman) v Wakefield City Council [2020] R.T.R. 11 (2019) determined that “administration” can include the cost of enforcement or compliance against licensed drivers. The same principles also apply to the enforcement of vehicles and operators.
- 5.8 Licence fees cannot, however, be used for enforcement activities against unlicensed operators and it is therefore necessary for the cost of enforcement of unlicensed drivers, vehicles and operators to be met out of general funds. This work forms a very small part of the overall work of the taxi licensing service with the vast majority of activity directed at the licensed trade.
- 5.9 The general methodology behind this review of fees has been determined by the Act and the document ‘Open for business: Local Government Association (LGA) guidance on locally set licence fees’. This guidance has been used as a starting point only because it was last revised in June 2017 and so does not take into account the decision in the recent Wakefield case in relation to enforcement costs
- 5.10 The LGA guidance acknowledges that the EU Services Directive, applicable to most forms of licensing, does not apply in the case of taxi and private hire licensing but the principles, however, remain helpful. The core principles are that fees should be non-discriminatory; justified; proportionate; clear; objective; made public in advance; transparent; and accessible.
- 5.11 The LGA guidance draws attention to two important decisions in relation to fees. The first is R (Cummings) v Cardiff [2014] which rules that the charges within a licensing regime for different categories of taxi licence should be accounted entirely separately and should not subsidise each other.
- 5.12 The second is Hemming v Westminster. Strictly speaking this does not apply to taxi and private hire licensing as this case proceeded under the auspices of the EU Services Directive from which transport services are specifically excluded. The principle ruling was that application fees relate solely to the costs of authorisation i.e. reviewing the application and granting or refusing it. Successful applicants should subsequently be charged an additional fee relating to the costs of on-going maintenance and enforcement. Whilst this is not necessarily applicable to taxi and private hire licensing it would be prudent to bear in mind the principle when considering the requests to refund application fees for unsuccessful applicants.

6. Risk considerations

- 6.1 Fees may be challenged in the High Court (Judicial Review) or by complaint to the Local Auditor. It is therefore important that the process the Council follows is fair, open, and transparent.

7. Procurement considerations

- 7.1 There are no procurement considerations.

8. Other considerations

8.1 There are none.

9. Equality and Diversity

9.1 If the Council decides to remove the discount for wheelchair assessable vehicles it may impact on the number of vehicles which are licensed as a financial incentive is offered. If this was to be taken away, then it could have an impact on equality. It is recommended therefore that the wheelchair accessible vehicle discount is retained.

9.2 Sustainability/Climate Change Implications.

9.3 Taxi and Private Hire vehicles help reduce the need for private ownership of cars. They also play a pivotal role in transporting children to/from school and supporting the night-time economy. They can also help reduce emissions to the atmosphere.

10. Timetable for implementation

10.1 Following objections, a Licensing Committee has been convened. Licensing Committee to determine when fees take effect and to what amount. However, **the fees must be implemented on or before 25 January 2023.**

11. Contact

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Appendices: -

- **Appendix A** – Proposed fees
- **Appendix B** – Objections