

12 December 2017

Planning and Licensing Committee

**Setting of Hackney Carriage and Private Hire Driver
Licence Fees for 2017/18**

Report of: Paul Adams, Principal Licensing Officer

Wards Affected: All

This report is: Public

1. Executive Summary

- 1.1 This report is to agree fees and charges associated with Hackney carriage and Private Hire Driver Licence applications for the 2017/18 period, for recommendation to Council for setting.

2. Recommendation(s)

- 2.1 To recommend to Council the adoption of the licence fees as detailed in Appendix B.**

3. Introduction and Background

- 3.1 Most licence applications attract a fee, different licensing regimes have different ways in which the fees are set, which generally is by one of three ways.
- A statutory set fee.
 - A locally set reasonable fee that has by statute, a capped maximum amount.
 - A locally set reasonable fee with no maximum cap.
- 3.2 With the exception of the statutory set fees, any fee charged must be based on cost recovery, no profit can be made on the licence fee income
- 3.3 Fees that are set by statute, cannot be varied and must be charged as they are set within the legislation.

- 3.4 Fees that can be set locally with a capped maximum must be set on a cost recovery basis up to the cap. If the cost recovery is less than the capped amount then less than the cap should be charged, if it is higher than the cap then a loss will need to be made.
- 3.5 Fees that can be set locally without a cap, must be set on a cost recovery basis only, they cannot be used to generate an income to perform other functions of the Council. This includes all types of Hackney Carriage and Private Hire Licences.
- 3.6 Guidance does exist in relation to fee setting in the form of:
- Home Office Guidance on setting Scrap Metal Dealers Act 2013 Fees,
 - LGA Guidance on Locally Set Fees,
 - Welsh Technical Panel templates,
 - Case law.
- 3.7 Generally, fees cannot make a profit, case law has established that any surplus must be carried forward, and any deficit can also be carried forward and recouped.
- 3.8 Benchmarking of fees could be used only as a comparison, and should not be used as a fee matching exercise. Each authority will have different costs, structures and processes which will significantly could create differences in fees.
- 3.9 Brentwood Council last set its Hackney Carriage and Private Hire Licence fees in 2016.

4. Issue, Options and Analysis of Options

- 4.1 Fee setting is usually carried out in preparation to bring into effect any changes at the start of each financial year. The Hackney Carriage and Private Hire Licence fees were not reviewed with all other licence fees for the 2017/18 period, as additional work was being undertaken on the costs associated with providing this licensing function.
- 4.2 This additional work has highlighted that the fee being charged for the Licensing of Hackney Carriage and Private Hire Drivers is significantly insufficient to cover the current calculated cost of providing the service.

This was due to previous years calculations using predicted data instead of actual data when it became available.

- 4.3 It has been agreed with the Chief Executive that the historic deficit of £44,415 that exists since the actual data has been used on the drivers account will not be carried forward into future fee calculations, and has been zeroed at the end of the 2016/17 financial year and written off.
- 4.4 It is proposed to review the Hackney Carriage and Private Hire Drivers application fees now, as a measure to reduce the impact of the insufficient cost recovery of this element of the Licensing Service. This review uses actual data from the previous financial year with predicted data for this current financial year.
- 4.5 A copy of the licensing accounts for 15/16 and the fee income prediction for 17/18 is attached as Appendix A.
- 4.6 A Schedule scheduled of proposed fees for the 2017/18 period are attached as Appendix B.
- 4.7 It is intended that the fees will come into effect from 1 February 2018, subject to approval by Council.

Hackney Carriage and Private Hire Drivers Licences

- 4.8 All Hackney Carriage or Private Hire Drivers Licences are currently granted for 3 years, unless there is a good reason not to do so.
- 4.9 Currently the cost of the DBS check is charged in addition to the fee. This fee will rise to £52 from £44 to reflect the current cost incurred of this check.
- 4.10 A DVLA Licence check will be carried out annually, the cost of this is now included in the cost of the licence application.
- 4.11 A DVLA Group 2 Medical is required every three years unless age or medical conditions require otherwise, the cost of the medical is met by the applicant and is not included in this fee.
- 4.12 The application fee for new applicants is to include up to 4 attempts to pass the Knowledge Test, further attempts will be subject to an additional fee as provided in Appendix B.
- 4.13 It is proposed to increase the new licence fee to £456 from £300 and the renewal fee will rise to £406 from £240.
- 4.14 The situation will be monitored and will be reviewed at the end of this year once changes to the Licensing Team structure and process have imbedded and revised time monitoring undertaken.

5. Reasons for Recommendation

- 5.1 The fees and charges have to be agreed by Council and can not be set by this committee. The fees proposed are on a cost recovery basis where possible.

6. Consultation

- 6.1 There is no consultation required under legislation relating to any of the discretionary fees outlined in this report that are subject to change. However, these will be published on the Council's website and are in all cases open to challenge by way of Judicial Review should they be inappropriately set.
- 6.2 Although no consultation is required by legislation, the proposed fee has been consulted with Brentwood's Taxi Trade Consultative Group, and the response from their agreed representative for this matter is attached as Appendix C.
- 6.3 The TTCG makes reference to five points in paragraph 9 of their response that they would like assurances on, for them not to oppose the proposed fee. Assurances can be given that these matters will be in place if not already in place for future accounting and fee calculation. A full response to all the points raised by the TTCG has been sent to them and is attached as Appendix D.
- 6.4 As an additional measure to provide assurance around the fee setting an audit was requested by the Head of Paid Services and Financial Services Manager to provide an independent review on fees relevant to taxi driver licensing. The purpose of the audit is to provide assurance that the proposed fees and charges for 2017-18 have been calculated correctly.
- 6.5 The Audit report provides that based upon the work undertaken and the information available at the time of the audit, the figures used in the setting of the taxi driver licensing fees for 2017-18 have been set with reference to the Council's approved budgets for the year and a reasonable assessment of actual costs to be incurred over the next three years, such that the Drivers Trading Account can be brought back into a break even financial position. The Audit Key findings is attached as Appendix E.
- 6.6 The draft management response to the key findings are given below, and are subject to approval at the Audit Committee;

- Ref 2 - Financial Services Managers accepts that more transparency could be made to the TTCG, and sharing budget monitoring results could be of an effective approach. Actual Expenditure incurred is continually under review and is fed into the usual year end adjustments to the Driver Trading budget, however this is accepted that it could be done in a more timely manner.
- Ref 3 – this has always been accepted by the Council that the time monitoring exercise be repeated to capture the amount of time that is spent on each area of licensing to ensure the cost recover model remains accurate. The current time monitoring will be continued for a period of at least one year or for longer if necessary to ensure an accurate picture is obtained, which is in line with the recommendation. Evidence of the review and the results from timesheet analysis and the impact upon the Driver Licenses Trading account will be shared with the TTCG.

7. References to Corporate Plan

7.1 None

8. Implications

Financial Implications

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8.1 The impact of the revised fees and charges will be incorporated within the medium term financial plan.

Legal Implications

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8.2 There are potential cost implications in the event of failure to calculate or advertise fees in the proper manner, however, the fees proposed in this report have been calculated on a cost recovery basis using a robust system of accounting which has been developed over time to ensure they are as accurate as possible.

8.3 The recovery of a fee for drivers licenses for hackney carriages and PHVs is under section 53 (2) Local Government (Miscellaneous Provisions) Act 1976 so that any fee must be reasonable with a view of recovering the costs of administration and issue.

Vehicle and operator's license fees are recoverable under section 70 of the same Act and any fee can only charge for the reasonable costs of carrying out the inspections of both types of vehicles for determining if a license should be granted, any reasonable costs for providing hackney carriage stands and any administrative or other costs relating to the control and supervision of vehicles.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

None

9. Background Papers (include their location and identify whether any are exempt or protected by copyright)

9.1 Local Government (Miscellaneous Provisions) Act 1976.

10. Appendices to this report

- Appendix A - Licensing Accounts and Fee workings.
- Appendix B - Proposed 17/18 Taxi Licensing Fees and Charges.
- Appendix C – Consultation response on behalf of the TTGC.
- Appendix D – Response to the TTGC representation.
- Appendix E – Audit key findings.

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