

PROPOSED CHANGES TO TAXI LICENSING FEES AND CHARGES FOR 2016-2017

1.0 Purpose of the Report

1.1 The purpose of this report is to

- (i) Invite Members to consider the objections received from members of the hackney carriage and private hire trade following the advertisement of the proposed changes in the fees and charges relating to the licensing of hackney carriages and private hire vehicles, their drivers and operators.
- (ii) Determine these fees and charges in the light of these objections

2.0 Background

2.1 On 01 March 2016 Members considered a report which proposed a level of fees and charges in respect of hackney carriage and private hire drivers and vehicles and also private hire operators (see **Appendix 1**). These proposed fees had been based on the actual cost of administering the licensing regimes and, where appropriate, enforcing the relevant legislation pertaining to these regimes.

2.2 Members approved the proposed fees and these were duly advertised in the Northern Echo on 04 March 2016 with a requirement that any objections to the increases should be made in writing no later than 01 April 2016. The advertisement also stated that any objections would be considered at a meeting of the Licensing Committee on 19 April 2016.

In addition letters detailing the proposed increases were sent to every vehicle proprietor and private hire operator with a request that they be also passed to their drivers. As a result 4 objections have been received in respect of the proposed increases. Two of these are from drivers, one from a Private hire Operator and one from A –Z Licensing on behalf of 26 trade members.

3.0 THE OBJECTIONS

3.1 On 11 March 2016 an objection was received from Mr T Jolly who holds Hackney Carriage Driver licence number 057. In summary he expresses concern at the impact the proposed increases will have on taxi drivers. His objection has been reproduced in full at **Appendix 2a**. He has been sent a copy of this report and invited to attend Committee.

3.2 On 17 March 2016 an objection was received from Mrs Kirsty Vickers who holds Hackney Carriage Driver 067. In summary she expresses concern at the size of the proposed increase in the driver licence, asks that money be spent on taxi marshalls and asks for a full breakdown of costs. Her objection has been reproduced in full at **Appendix 2b**. She has been sent a copy of this report and invited to attend Committee. Appendix 1 to the report contains the calculations that she has asked for.

3.3 On 29 March 2016 an objection was received from 1AB Taxis Ltd in respect of all of the proposed fees. In summary the Company expresses the view that the fees have been “a knee jerk reaction by the licensing office following challenges from Darlington hackney operators as a result of the Cardiff case” and advises that the trade should be compensated with an increase in licensing staff and an increase in the availability of appointments for the licensing vehicles & testing drivers. This objection has been reproduced in full at **Appendix 2c**. The Company has been sent a copy of this report and invited to send a representative to Committee.

3.4 On 30 March 2016 an objection was received from A-Z Licensing on behalf of Darlington Taxi Association which at the time of writing this report represented 23 Hackney Carriage owner/drivers and 3 Hackney Carriage drivers. Members will recall that Mr Wilson from A-Z Licensing had made comments on behalf of 26 trade members in respect of the report considered by Members on 01 March 2016.

Mr Wilson did not attend that Committee, however officers returning to their desks after the Committee found an email advising that he was unable to attend but asking for Committee to defer the matter and raising the issue of some guidance from the Local Government Association (LGA) in respect of the setting of fees. Clearly this was not received prior to the Committee and Mr Wilson has been advised of this accordingly.

3.5 The most recent objection from A-Z Licensing reiterates the view that 5 separate accounts should be kept in respect of hackney carriage drivers, hackney carriage vehicles, private hire drivers, private hire vehicles and private hire operators & requests that retrospective calculations are undertaken in respect of each of these accounts.

Although not representing the private hire trade the objection also raises issues in respect of the calculations for private hire operators including a £10 levy on the operator for each vehicle and issues in respect of the amount of time spent on each task. The objection also questions the cost of a vehicle test, which in itself is not part of the fees consultation.

The objection has been reproduced in full at **Appendix 2d** and Mr Wilson has been sent a copy of this report and invited to attend Committee. As the issues raised by Mr Wilson are very specific they have been addressed in the following section of this report.

4.0 OFFICER RESPONSES TO A-Z LICENSING

4.1 In an earlier email Mr Wilson suggested that in the light of the LGA guidance the proper accounting method should be 5 separate accounts. Officers have carefully studied the guidance and cannot see how it supports Mr Wilson’s view that 5 separate accounts are necessary, however Officers wrote to the LGA on 02 March 2016 and asked them for a view as follows:

“We are considering the Cardiff Case in respect of setting fees for hackney carriage and private hire vehicles and in accordance with what we understand the judgement to be have separated out fees into private hire and hackney carriages regimes (and within those separations have identified the different income streams from the various licence types). We believe this is in accordance with 4.2 of the judgement which states:

A local authority must keep separate accounts for and ensure when determining hackney carriage and private hire licence fees under sections 53 and 70 of the

Local Government (Miscellaneous Provisions) Act 1976 that any surplus or deficit accrued under each of the hackney carriage and private hire licensing regimes, and between each licence within those regimes, are only accounted for and taken into account within the regime under which they have accrued and a surplus from one licensing regime shall not be used to subsidise a deficit in another”

And makes it clear that the fees within each regime shall not be used to subsidise the other.

We have received a challenge from a trade representative, citing the LGA “Open for Business” guidance as a reason why we should have 5 separate licensing accounts. We have read the guidance carefully & it appears to simply reiterate the Judgement. We are well aware that this is a matter for debate nationally but firmly believe that a common sense approach has to be taken so that we are not trying to apportion for e.g. the cost of accommodation, telephone charges etc to 5 separate accounts – which would be an accounting nightmare. (an example would be telephone charges – without keeping a record of every single call it would be impossible to attribute costs to a specific licence type & if the call was about both a vehicle & a driver it becomes even messier). It would also be impossible to retrospectively calculate.

We have calculated fees based on actual costs and have set up accounting cost centres that splits the central recharges and other overall generic charges on a % basis to both HC & PH regimes. This to us captures the requirements of the Cardiff Case (prior to this case we always had ring fenced trading account for “taxi” licensing with surpluses/deficits properly accounted). We have not retrospectively calculated back to 2009 as we believe it was only incumbent on Cardiff to do this because of their lack of proper accounting over the years – also this was a consent order so the issues have never been properly rehearsed.

Can you advise please whether the LGA guidance is indeed stating we must have 5 accounts (even though we can find no reference to this in the guidance) or is it simply reminding LAs of the judgement & placing the onus for proper accounting on each LA?”

4.2 On 17 March 2016 a response was received from the LGA as follows:

“Apologies for the slow response. I was on leave until yesterday. You are right that our guidance simply restates the case and does not expand beyond it. The approach you have set out sounds to be in keeping with the judgement, and therefore our guidance. Although you could in theory record each cost against a specific licence type, this would actually cost a lot of money (in officer time) to do, increasing costs, and therefore not in keeping with a council’s overall responsibility to keep costs proportionate to the necessary administration of the scheme. “

4.3 Mr Wilson raises a plethora of issues about the calculations of the fees e.g. differentials between 1 and 3 year licences, issue of officer salaries, time spent by officers in dealing with specific parts of the licensing process, number of inspections visits, time spent on DBS processing etc.

Members will note from the calculations contained within **Appendix 1** that officers have spent considerable time calculating each part of each process and are satisfied that they can stand up to challenge and the salary levels that have been applied are based on the Home Office Guidelines.

However closer scrutiny of the earlier report has shown that there was an error in the calculations , in that the 3 year Driver Grant had inadvertently reflected the 3 year Driver Renewal. This has been addressed by a replacement of this document only at **Appendix 3**.

4.4 In respect of the separate issues raised within Mr Wilson's letter in roman numerals, Officers have responded to each separate point as follows:

- (i) Mr Wilson raises the issues of double charging for the driver knowledge test. This is not the case as the initial knowledge test is incorporated into the driver licence grant fee. Another charge is only levied if the driver fails the test or fails to attend the test and this charge is not included in the licence fee calculation. Mr Wilson also raises the issue of the 3 year driver grant licence fee – as stated above this was an earlier error which has now been addressed at **Appendix 3**
- (ii) Mr Wilson raises the issue of the £55 charge for a vehicle test. This does not form part of the licence fee and has been set by the provider within the Council. Officers have however approached the relevant department and asked for further information on this costing and a verbal update may be given at Committee.
- (iii) Mr Wilson raises a query in respect of the time spent on post vehicle inspections. There are a range of inspections carried out in respect of vehicles ranging from checks of insurance and MOT to the proactive targeted ongoing inspection regime that is undertaken both in and out of office hours. The inspections are not limited to vehicles over the age of 6 years.
- (iv) Mr Wilson challenges the amount of time spent on inspection visits for 1 year Private Hire Operator licence. Officers can advise that there is a pre-licensing inspection of the site to determine suitability (parking, access etc.) and checks in respect of planning and highways restrictions. During the term of the licence officers will visit and inspect the premises at least once and this in itself generates further administrative work.
- (v) Mr Wilson challenges the amount of time (7 hours) spent on inspection visits for 5 year Private Hire Operator licences. As stated above there is a pre-licensing inspection of the site to determine suitability (parking, access etc.) and checks in respect of planning and highways restrictions. During the term of the licence officers will visit and inspect the premises at least once annually although not necessarily carry out an in depth inspection on each visit (otherwise this would raise the amount of time spent).
- (vi) Mr Wilson challenges the £10 annual vehicle levy applied to each vehicle operated by a Private hire Operator. This has been applied to the Operator to fairly reflect the additional work that is required with larger operators and is an alternative to having fee bands for different sized operators. Officers believe this is fair to all operators as smaller operators will not pay as much as larger operators.
- (vii) Mr Wilson had claimed the time spent in respect of criminal records checks is excessive had could be reduced further using the online DBS system. Officers can advise that the online service is addressed in the Council's policy document with a detailed explanation of how the trade can access this service.

- (viii) Mr Wilson has queried the additional/central costs. These are the costs that are levied on the service for such things as heating, lighting, IT, accounting HR, postages and printing. These are the general costs that are applicable to each licence. There has been differentiation however where appropriate e.g. the cost of the hackney carriage ranks has been applied only to the hackney carriage service.
 - (ix) Mr Wilson queries the officer salaries and asks for a salary breakdown for each of the grades. Officers can advise Members that the officer charges were taken directly from the Home Office guidance for differing officer scales.
 - (x) Mr Wilson raises issues about correct apportioning of supplies and services. This is in view of his belief there should be separate accounts. Officers have already explained earlier that this is not the view of this Council.
- 4.5 The Principal Licensing Officer, who has calculated each licence cost, will attend Committee to answer any questions which Members may wish to ask in respect of the calculations.

5.0 RECOMMENDATIONS

5.1 Members are invited to

- i) Consider the proposed fees relating to hackney carriage vehicle and driver licences, private hire vehicle and driver licences and private hire operator licences as detailed in **Appendix 1B** of the report in the light of the objections detailed within this report and any further issues raised at Committee
- ii) If satisfied that the proposed fees are reasonable to meet the costs of the “taxi licensing service”, approve the proposed fees
- iii) Approve the proposed increase (from £30 to £35) in the cost of the knowledge test

9.0 REASONS

- 9.1. The recommendations are put forward to ensure that the costs of delivering the taxi licensing service can be met directly from the relevant licence fees.

Ian Williams
Director of Economic Growth

Background Papers

The Local Government (Miscellaneous Provisions) Act 1976
The Deregulation Act 2015

Appendices

Appendix 1 – Fees report considered by Members on 01 March 2016

Appendix 2 – Trade Objections to proposed fees

Appendix 3 – Correct Calculation for Driver Licence Grant – 3 years

Pam Ross : Extension 5988

**CHAIR & MEMBERS OF THE LICENSING COMMITTEE
01 MARCH 2016**

ITEM NO.

PROPOSED CHANGES TO TAXI LICENSING FEES AND CHARGES FOR 2016-2017

1.0 Purpose of the Report

- 1.1 The purpose of this report is to invite Members to approve proposed changes in the fees and charges relating to the licensing of hackney carriages and private hire vehicles, their drivers and operators. The proposed fees have been based on the actual cost of administering and where appropriate enforcing the relevant legislation pertaining to such licences.

2.0 Background

- 2.1 The purpose of licensing hackney carriages and private hire vehicles, their drivers and operators is to ensure the travelling public of Darlington are provided with a safe and reliable service and are protected from all illegal activities that can be associated with the provision of a taxi service. The cost of administering and controlling this service may be recouped by the levy of fees as specified in the legislation governing this area of licensing. The legislation permits the Council to recover all or part of the costs of providing the taxi licensing service, including its administration and control (i.e. enforcement or supervision). It does not permit the Council to profit from its fees and charges, thus ring fencing the income to the Taxi Licensing service. The Council may, however, choose to subsidise the service. **Appendix 1A** to this report replicates the relevant sections of the Local Government (Miscellaneous Provisions) Act 1976 relating to the levy of fees and charges.

3.0 Information and Analysis

- 3.1 On 15 December 2015 Member considered a report which invited them to support the proposed fees and charges detailed later in this report, prior to it going to Cabinet and ultimately Full Council for final approval. The report also reminded Members of an earlier report considered by the committee on 29 September 2015 in respect of the extension of licence periods introduced by the Deregulation Act 2015 and the need to introduce fees for such extended licence periods.
- 3.2 On 16 December 2015 the proposed fees were advertised in the Northern Echo and any objections were to be forwarded to the Council by 13 January 2016. This was to meet the legislative requirement that a period of not less than 28 days be allowed for objections to be made. In addition a copy of the proposed changes was made available at the Licensing office also.
- 3.3 While Full Council has always ultimately made the decision about the levy of all fees and charges in respect of the provision of the taxi licensing service, there has been an issue raised by a representative of the Taxi Trade in respect of the current fee setting process (that process had also referred the proposed fees to the Licensing Committee and Cabinet) as this appears to have led to the impression that Cabinet alone has been responsible for the setting of the fees and charges.

- 3.4 It has become clear that a delegation of the power to set fees and charges in respect of Licensing to the General Licensing Committee would not only clarify the position but also enable members to consider matters in more detail and then to go on to agree the scale of fees and charges. Officers are aware that this power is delegated to the General Licensing Committee in a number of other Councils.
- 3.5 This change will allow greater flexibility for the setting of fees and charges and enable in depth consideration to be given by members in a specialist committee, whenever the need arises. This will be of particular benefit in allowing sufficient time to be given to consider any representations or objections to any proposal or for complex issues to be considered in detail. It will provide a forum to consider both the objections and any issues in detail and also arrive at a determination of the fees and charges after so doing. The delegation to the General Licensing Committee will also enable members who have a developed understanding of licensing to have responsibility for this area.
- 3.6 As a result of these considerations, a report which invited Full Council to delegate the setting of those fees and registrations that are within the remit of the General Licensing Committee to that Committee was considered by Full Council at their meeting on 28 January 2016. Full Council duly approved the delegation and the Council's Constitution has been amended accordingly.
- 3.7 The trade representative has however claimed that the process of actually setting the fees was ultra vires and although Officers dispute this claim, for the avoidance of any doubt whatsoever, Officers have agreed to restart the process by inviting the Licensing Committee to once again support the proposals for the revised fees for 2016-17. Indeed, given the issues that have been raised (as detailed in paragraph 4.1 below) during the scrutiny of the fees and the subsequent discovery that the fee setting process had inadvertently excluded officer "down time" the actual fees have had to be raised and need to be advertised as a fresh proposal. In addition a levy had had to be applied to all private hire licences to eradicate an expected deficit from 2015-16. Subject therefore to Members' approval, the revised fees will be advertised, starting a further 28 day period of consultation with the Trade. Any objections will then be considered by Members at a future meeting.

4.0 THE FEES PROPOSAL

- 4.1 The proposed fees in respect of the taxi licensing service are detailed at **Appendix 1B** to this report. As stated above, these fees are higher than those originally approved by Members in December 2015. This is because a further check of the calculations for each licence revealed that the original figures had failed to take into account Officer "down time" – i.e. the time when officers were not specifically processing an individual licence but were dealing with a wide variety of other tasks e.g. filing, answering telephone queries, dealing with weekly insurance policies etc. In addition Officers had hoped to offer a dual licence (i.e. Hackney Carriage and Private Hire) for the same fee as the single licence but have now been unable to introduce this for 2016-17 because of an expected deficit in the private hire budget which has required a levy to be placed on all private hire licences for the next financial year.

4.2 The proposed fee structure has been simplified as follows:

- The private hire vehicle operating levy of £35 has been removed and replaced with a £10 vehicle levy on the private hire operator licence.
- There is now the option of a 3 year licence for drivers;
- There is now the option of a 5 year licence for operators.
- For current drivers wishing to move to a 3 year licence there is an interim 2 year fee specifically designed to bridge the period when a criminal record check or medical may fall due between the current licence and the potential 3 year licence. The 2 year licence will only be made available under such circumstances

In future, subject to any budgetary constraints, officers will work towards a single licence fee for all drivers.

5.0 RESPONSES TO INITIAL CONSULTATION FROM THE TRADE

5.1 In respect of the initial consultation, on 21 December 2015 a letter was received from one of the vehicle proprietor- drivers (Mr A Leighton) who reminded the Council that the taxi licensing fees are ring fenced and requested the last 3 years' taxi licensing accounts. At the same time he stated that the 4 week consultation period was insufficient to obtain "professional accountancy and legal advice" over the Christmas period. He further requested details of the number of vehicle licences and driver licences issued.

5.2 On 21 December 2015 a letter was sent to him advising him that as his query had not been an objection to the proposed fees it had been referred to the Council's Freedom of Information team who would respond in due course. The letter also advised him that he would actually benefit from the proposed changes to the fees.

5.3 On 04 January 2016 he spoke to the Principal Licensing Officer and advised that he wished to object to the proposed fees and charges as he was opposed to any increase in fees. The Officer advised him that he would benefit financially from the proposed changes and further advised that he should put his objection in writing with details of why he was making an objection.

5.4 Members should be aware that when he applied to renew his vehicle and driver licences in 2015 Mr Leighton paid £410 licence fee for his hackney carriage vehicle licence (plus the £15 cost of a vehicle identification plate) and £70 for his hackney carriage driver licence; a total of £480 + £15. If he chooses to renew both licences in 2016 he will pay a licence fee of £355 for his hackney carriage vehicle licence (plus the £15 cost of a vehicle identification plate) and £125 for his hackney carriage driver licence; a total of £480 + £15. The fees will therefore be cost neutral to him. This objection however appears now to be subsumed into a trade objection as detailed in the paragraphs below

5.5 On 12 January 2016 a letter was received from a Mr David Wilson of A to Z Licensing who advised that he was representing Members of the Taxi trade through a newly formed Darlington Taxi Association. He has raised issues about the legality of the fee setting process and also about the fee setting and budgetary processes. This letter has been reproduced in full at **Appendix 1C**.

5.6 Officers initially responded to Mr Wilson's letter on 25 January 2016 (**see Appendix 1D**). Members will note that the officer's letter referred to a reduction in fees for 23 of the trade members represented by Mr Wilson. This was correct at the time of writing however Members will note that following Mr Wilson's

comments the fees were revisited and it was noted that some elements of central charges (officer “downtime” had not been accounted for. The new fees therefore are higher than originally thought. The Officer’s letter prompted a further letter from Mr Wilson which was received on 05 February 2016. This letter has been reproduced in full at **Appendix 1E**.

5.7 Mr Wilson was asked to produce details of each licensee he represented. He has provided this and Officers have added the details of licences held by each person on the list and reproduced this information at **Appendix 1F**. Members will note that Mr Leighton is a member of this association also.

6.0 OFFICER RESPONSES TO THE ISSUES RAISED BY MR WILSON

6.1 Mr Wilson has raised several issues as follows which shall be dealt with, in turn, below:

- The issue of correct delegation of function
- Issues in respect of the process for recording officer time
- Issues in respect of surpluses and deficits
- Issues in respect of separate accounting for private hire and hackney carriage regimes

6.2 Delegations

Council has always approved all fees and charges as part of the Medium Term Financial Plan (MTFP). This report, which contains proposed fees and charges for licences and registrations goes through Cabinet and on to Full Council. Officers accept however that this may have caused some confusion to the Trade – i.e. referring matters through Cabinet before Full Council. This whole issue has therefore been resolved by the delegation of this function by Council to the General Licensing Committee.

6.3 The process for recording officer time

6.3.1 Mr Wilson refers to the process that was used to calculate the time spent on each activity that makes up a licensing process. He advises that we are “seemingly relying on the model used by Redcar and Cleveland Council, which was thought to adopt Middlesbrough’s approach, which was in fact based on a process developed by North Tyneside Council”. Mr Wilson then goes on to advise that the time recording used had resulted in a substantial surplus for each licence type. Officers have spoken to colleagues in both Middlesbrough and Redcar & Cleveland Councils who have advised as follows:

- Middlesbrough has confirmed that they have used the North Tyneside model. They purchased this model from Capita.
- Redcar & Cleveland has confirmed that they did not use the North Tyneside model but a variation of a model they had used earlier when setting fees for scrap metal functions.

6.3.2 Officers at Darlington have relied on the formula used to set fees for scrap metal functions in 2013. The report that was considered by this Council’s Licensing Committee in December 2015 stated at 3.6: “*As part of the review of our fees and charges an exercise has been undertaken to establish the actual service costs based on a model similar to that used by Redcar and Cleveland Council – establishing the proportion of staff time spent on the taxi licensing function and the direct and indirect costs associated with delivering this service.*” In other words

these are the actual elements which make up a particular process plus any service delivery costs.

- 6.3.3 While this method used, where appropriate, blocks of tenths of an hour (i.e. 6 minutes) in the same way as the North Tyneside and other LAs recording processes, officers were aware that a specific task would not always take 6 minutes and in those cases a smaller time unit has been identified and used. The actual process has been appended for the attention of Members at **Appendix 1G** to this report and an Officer will attend Committee to answer any questions which Members may have in respect of this process.

6.4 **Issues in respect of surpluses and deficits**

- 6.4.1 Mr Wilson appeared to have made an assumption that there has not been correct accounting in respect of the ring fencing of the taxi licensing budget and the carrying forward of any surplus or deficit into future years. Members are fully aware that this is not the case at this Council. Trading accounts have been operational in respect of licensing for many years. In 2006 the Taxi trade challenged the taxi licensing accounts and as a result they were subject to an investigation by the District Auditor in 2007. The outcome of this investigation was a decision that £4000 had been incorrectly charged to the taxi licensing account. This had the result in reducing that year's deficit from £13k to £9k (there had been a net deficit from 2001-02 onwards, year on year). Members had agreed in these past years that the deficit would not carry forward each year, thus assisting the Trade by not requiring a larger increase in fees to compensate for the deficit, however should a deficit occur in the future it will no longer be possible for the Council to cover the cost as in previous years, given the current financial climate.
- 6.4.2 In later years there has been a small surplus which has been carried forward annually. This has had the effect of retaining the fee levels rather than increasing them. As Members are aware, the last increases of any kind were in 2010. The small surplus has rolled forward each year and was £20k in 2014-15. This was carried over as part of the fees setting for 2015-16. The estimated outturn for 2015-16 (including the £20k surplus) is a deficit of around £6k which will be carried over into 2016-17. To illustrate this, the anticipated outturn for the taxi licensing budget for 2015-16 is appended at **Appendix 1H** and the projected budget for taxi licensing for 2016-17 is also appended at **Appendix 1I**.
- 6.4.3 Officers are aware that such detailed recording of officer time and apportioning costs to separate accounts is a far more detailed (and accurate) way of calculating fees and can assure Members that all fees detailed in this report will be subject to very close annual scrutiny. Where either of the Hackney Carriage or Private Hire licensing regimes produces a fees surplus of 10% or more, then that regime's fees will be reduced in the following budgetary year to eradicate the surplus. Conversely where either regimes produce a fees deficit of 10% or more that regime's fees will be increased in the following budgetary year to eradicate the deficit. Officers are further aware that the budget has been set conservatively, in that it is likely that more income will be received from new grants etc whereas the budget has been based on the actual numbers of licences to be renewed. Again, any accounting adjustment can be made in the following year and if surpluses are shown beyond 10% of the expenditure budget then fees will be reduced the following year.

6.5 **Issues in respect of separate accounting for hackney carriage & private hire licensing.**

6.5.1 Mr Wilson referred attention to the 2014 case of R (on the application of Cummings) v Cardiff City Council which, as well as requiring surpluses and deficits to be taken into account when setting fees also reflected that there should be separate accounting for both private hire and hackney carriage functions. This case was a Judicial Review of Cardiff City Council where the courts found that the council had not been properly accounting and keeping record of any surplus or deficit dating back to 01 May 2009 and that the fees that had been set over the subsequent years had therefore been set without taking into account any such surplus or deficit surplus

Officers are aware that there are varying professional views around the country as to whether the Cardiff judgement has the effect of requiring completely separate accounts for each of the private hire and hackney carriage functions or whether it requires 2 accounts based separately on Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 or whether it requires 2 accounts based on separating out hackney carriage and private hire functions.

6.5.2 Mr Wilson appears to be relying on paragraph 4.2 of the judgement in the Cardiff case which states:

“A local authority must keep separate accounts for and ensure when determining hackney carriage and private hire licence fees under sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 that any surplus or deficit accrued under each of the hackney carriage and private hire licensing regimes, and between each licence within those regimes, are only accounted for and taken into account within the regime under which they have accrued and a surplus from one licensing regime shall not be used to subsidise a deficit in another”

He appears to have interpreted this as meaning that 5 separate accounts would be required – one each for hackney carriage drivers & private hire drivers, one each for hackney carriage vehicles and private hire vehicles and one for private hire operators. He refers in his letter to the findings of the District Auditor and Knowsley Council (which of course pre-dates the Cardiff judgement) to support this view.

6.5.3 Officers have carefully studied the findings of paragraph 4.2 and note that the learned Judge refers to two licensing regimes – i.e. the hackney carriage licensing regime and the private hire licensing regime. He talks about surpluses and deficits accrued under each of these regimes and between each licence within those regimes and says that these surpluses and deficits can only be accounted for and taken into account within the specific regime and surpluses from one regime cannot be used to offset deficits in the other regime. In other words, in the view of officers, Councils are simply required to keep separate accounts for both the hackney carriage regime and the private hire regime and ensure that one is not supporting the other financially.

6.5.4 This ruling was not something that the Courts had been asked to rule on but a decision made on the day. It is the view of officers that retrospective recalculation may have been required of Cardiff because of the significant issues of lack of proper accounting over the years but this was not incumbent on every other local authority. The judgement, although given on 18 June 2014 was not approved until 28 July 2014, which was part way through a financial year where

budgets had already been set and when the budgetary process for the year 2015-16 had commenced.

There was also some expectation nationally that this judgement may be challenged, given its potential impact on all local authorities for the future. It was not therefore applied to the Darlington Council's Taxi Budget when considering the fees and setting the budget for 2015-16. The principle of separate accounting has therefore been applied from 2016-17 onwards along with a detailed analysis of the component parts and associated costs of every activity that is required

- 6.5.5 Given the issues raised by Mr Wilson, Officers have undertaken a desktop exercise to retrospectively calculate both the Hackney Carriage and the Private Hire budgets for 2015-16 using the same principles as that applied to the 2016-17 budget.

A surplus has been carried forward from 2014-15 which could not be apportioned to the separate accounts without going back a further year or more - this would create a knock on situation where officers would potentially have to recalculate for more than 10 years. This surplus has therefore been apportioned at 65% for HC account and 35% for the PH account based on the % of licences within each regime. The retrospective calculation shows (see **Appendix 1J**) a small deficit in the Hackney Carriage budget but a larger deficit in the Private Hire budget of £5491.

To enable the 2016-17 budget to balance this deficit has been applied to the 2016-17 licence fees for all private hire licences to offset the cost to the service. This equates to a £25 levy per private hire licence for 2016-17. The entire budget will thereafter be revisited annually based on the apportioning to separate accounts and fees will be recalculated annually accordingly.

- 6.5.6 Darlington is unusual in that it has a small proportion of private hire trade and even the PH Operators tend to operate HCVs as well as PH vehicles. By way of example a comparison of the Tees Valley LAs undertaken at 30 September 2015 showed the number of HC vehicles and PH vehicles for each Council as follows:

	Darlington	Hartlepool	Middlesbrough	Redcar & Cleveland	Stockton
HC Vehicles	171	137	259	78	289
PH Vehicles	76	165	644	318	486

Unlike many other Local Authorities, the experience of our enforcement officers shows that Darlington does not have issues around private hire vehicles picking up un-booked fares and the vast majority of officer time is focused on issues involving the hackney carriage trade. This will be reflected annually in the recalculation of fees.

- 6.6 Mr Wilson has been advised of the date of the Licensing Committee hearing and has received an invitation to attend along with a copy of this report.
- 6.7 Subject to Members' approval of the proposed fees an advertisement will appear in the Northern Echo within approximately 3-5 days of the Committee hearing. A 28 day period of consultation will then follow and objections will be referred back to Members at the meeting of the General Licensing Committee on 19 April 2016. Although driver licence fees are not subject to statutory advertisement and

consultation Officers recommend that they should be included in the entire consultation process.

7.0 FURTHER INFORMATION

- 7.1 The proportion of Officers time allocated to the taxi licensing function is attached as **Appendix 1L**. This has had to be amended since the report considered by Members on 15 December 2015 to reflect the additional work that will now be required in respect of other licensing during 2016-17. This has the effect of reducing the cost to the taxi trade.
- 7.2 At **Appendix 1M** is the anticipated income from the proposed fees and at **Appendix 1N** is the actual weekly cost for a vehicle, driver and operator licence.

8.0 RECOMMENDATIONS

- 8.1 Members are invited to
- i) Approve the proposed fees relating to hackney carriage vehicle and driver licences, private hire vehicle and driver licences and private hire operator licences as detailed in **Appendix 1B** of the report
 - ii) Approve the increase from £30 to £35 of the cost of the knowledge test
 - iii) Approve the commencement of the consultation period by way of the advertisement of the fees in the Northern Echo of all licences detailed at (i) above.

9.0 REASONS

- 9.1. The recommendations are put forward to ensure that the costs of delivering the taxi licensing service can be met directly from the relevant licence fees.

Ian Williams
Director of Economic Growth

Background Papers

The Local Government (Miscellaneous Provisions) Act 1976
The Deregulation Act 2015

Appendices

- A** Extracts from 1976 Act pertaining to setting of fees
- B** Proposed fees & charges for 2016/2017
- C** Letter of objection from A-Z licensing
- D** Officer's response to 1st letter from A-Z Licensing
- E** 2nd Letter of objection from A-Z licensing
- F** List of licensees represented by A-Z Licensing
- G** Fee setting process
- H** Anticipated budgetary outturn 2015-16
- I** Proposed budget 2016-17
- J** Desktop exercise -Retrospective calculation of the 2015-16 budget
- K** Overall increase/decrease in licence costs based on proposed fees
- L** Proposed allocation of Officer time 2016/2017
- M** Anticipated income from proposed fees
- N** Weekly cost of taxi licences

Pam Ross : Extension 5988

THE LEGISLATIVE BASIS FOR SETTING FEES

Section 53 (2) of the Local Government (Miscellaneous Provisions) Act 1976 states that:

“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 is appropriate to do so.”

Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 states that:

- (1) Subject of the provisions of Sub Section (2) of this section, 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;
 - (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 Sub Section (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.

**PROPOSED TAXI LICENCE FEES AND OTHER CHARGES APPENDIX 1B
IN RESPECT OF ALL LICENCES DUE ON OR AFTER 01 APRIL 2016**

LICENCE	CURRENT	PROPOSED
Driver (single)	£70 (1 year)	1 year Grant £210 (HC) £235 (PH)*
		1 year Renewal £125 (HC) £150 (PH)*
		2 year Renewal £225 (HC) £250 (PH)*
		3 year Grant £405 (HC) £430 (PH)*
		3 year Renewal £320 (HC) £345 (PH)*
Driver (combined)	£110 (1 year)	£235*
HC Vehicle	£410 (excluding fees for plate(s))	Grant £385
		Renewal £355
PH Vehicle	£375 + £35 operator levy (excluding fees for plate(s))	Grant £395*
		Renewal £365*
PH Operator	£300 (1 year)	1 year Grant £555* + £10 per vehicle
		1 year renewal £375* + £10 per vehicle
		5 year Grant £1185* + £50 per vehicle
		5 year renewal £1005* + £50 per vehicle

ADDITIONAL CHARGES	CURRENT	PROPOSED
Knowledge test	£30 (re-sits and failure to attend for test only)	£35 (re-sits and failure to attend for test only)
Plate (rear)	£15	No change
Plate (front)	£10	No change
Door discs (each)	£5	No change
Tariff card	£2	No change
Duplicate Driver Badge	£10	No change
Vehicle transfer	£35	No change
Change of Operator	£35	No Charge (only 3 operators – never levied)
Admin Charge	£35 per hour or part	No change
Refer to drawer fee	£15	No change

***Includes £25.00 levy to address budget deficit**



3 Biddick Hall Cottages, Lambton Park, Chester-le-Street DH3 4PH
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Fax: 0191 2475855

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The Licensing Manager
Darlington Borough Council
Town Hall
Feethams
Darlington
DL1 5QT

Our Ref: DBW / CW / DTA
Your Ref:
Date: 12 January 2016
Please ask for: David Wilson

Sent by First Class post and email to:
licensing@darlington.gov.uk

Dear Sir / Madam,

Objection of Darlington Taxi Association to Taxi Licensing Fees

I act on behalf of Darlington Taxi Association, a newly-formed trade association. While my client agrees with the general principle of tackling the issue of fees following the enactment of the Deregulation Act 2015, it is respectfully submitted that the power to set fees is not vested in either the Cabinet or the General Licensing Committee and that process the Council has used to determine the fees is also unlawful.

It is unclear from the officer reports to the Meeting of Cabinet on 8 December 2015 and the Meeting of the General Licensing Committee on 15 December 2015 as to which was intended to be responsible for setting the fees. Unfortunately, neither can do so lawfully, because:

- Cabinet cannot set fees pursuant to section 2(6)(d) and (e) of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended); and
- While it is accepted that full Council can delegate the ability to set fees to a committee, having checked the Council's Constitution, that delegation has not taken place. The only powers delegated in the Constitution to the General Licensing Committee are those perhaps best described as 'determining applications', identified in the Constitution by reference to the Part 2 of Schedule 1 to the aforementioned Regulations.

Council may also find the High Court judgement in the case of R (on the application of Bridgerow Ltd) v Cheshire West and Chester Borough Council [2014] EWHC 1187 (Admin) useful. In that case a decision to refuse a sexual entertainment venue licence was set aside purely because the wrong body of the council had made the decision. It was stressed that the manner in which council functions were carried out was published, transparent and reliable. Mr Justice Stuart-Smith stated that the decision "must be set aside because it was taken by a group of people with no power to make it" (paragraph 37).

My client respectfully asks the Council to resolve the delegation of authority problem before contemplating re-starting the fee-setting process. Assuming that the Council will do so, I will take this opportunity to also address issues relevant to the fee calculation process on behalf of my client, which were evident from the two aforementioned reports.

Licensing Committee 01 March 2016 Taxi
Licensing Fees & Charges

It is noted that in the officer report to the Meeting of General Licensing Committee on 15 December 2015 reference was made to the Local Government Ombudsman's criticism of Middlesbrough Council about how it calculated taxi licensing fees.

My client applauds the licensing team for having taken the initiative to tackle this issue head on and for the efforts they have made to get the fee setting methodology right, seemingly relying on the model used by Redcar and Cleveland Council, which was thought to adopt Middlesbrough Council's approach, which was in fact based on a process developed by North Tyneside Council.

Regrettably, despite North Tyneside Council's process being the best and most transparent I have come across anywhere in the country, it is not perfect, as I believe North Tyneside Council will acknowledge as a result of it having now accrued a substantial surplus for each licence type. That surplus is thought most likely to result from the inherent element of overcharge, which arises from the use of time recording units each of six minutes and a failure to make well-informed and sensible adjustments to counter that element of overcharge.

My client needs to see the calculations and figures that underpin the proposed fees in order that detailed comment can, if appropriate, be made in relation to:

- the administrative processes;
- the amount of time spent at each stage and in total for each licence type; and
- as to what, if any, adjustments have been made to counter the inherent overcharge that arises from the use of six-minute time recording units.

It should, however, be stressed that the general approach taken by the licensing team is one that is supported by my client in principle, even though there are some points of challenge and further potential points of dispute.

It is noted that the aforementioned officer report to the Meeting of General Licensing Committee on 15 December 2015 there was no reference to the directly relevant and significant case of R (on the application of Cummings) v Cardiff City Council [2014] EWHC 2544 (Admin) in which the court made certain declarations.

For your ease of reference, I enclose a copy of the judgment and, more significantly, the declaration of the court. The two declarations made by the court were:

4.1 A local authority when determining hackney carriage and private hire licensing fees under section 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 must take into account any surplus or deficit generated from fees levied in previous years in respect of meeting the reasonable costs of administering the licence fees as provided by section 53 and 70.

4.2 A local authority must keep separate accounts for and ensure when determining hackney carriage and private hire licence fees under sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 that any surplus or deficit accrued under each of the hackney carriage and private hire licensing regimes, and between each licence within those regimes, are only accounted for and taken into account within the regime under which they have accrued and a surplus from one licensing regime shall not be used to subsidise a deficit in another. As the Council has not administered taxi licensing accounts in a manner consistent with the High Court's declaration, my client respectfully asks the Council to undertake a retrospective review of all fees in relation to each of the separate accounts it ought to have been keeping for as long as it has accounts to establish:

- whether there is an accrued surplus or deficit on any of the individual accounts and, if so, to what amount as such surplus or deficit should be taken into account when setting fees for the future; and
- whether there was any historic cross-subsidisation of one licence type by another and, if so, to make retrospective adjustments to correct such errors and, if necessary, to consider whether any such unlawfully charged fees should be repaid to those who paid them in the first place.

As this process is going to take a considerable period of time to complete, the Council is respectfully asked to retain the current fees (in order to avoid further complicating the retrospective calculations that are necessary to comply with the High Court's declaration), until such time as the Council can be sure it has retrospectively made any necessary adjustments to achieve compliance with the declaration made in *Cummings v Cardiff*.

It is appreciated that doing as requested will prevent the Council from implementing three year driver licences and five year operator licences as required by the Deregulation Act 2015, but anyone who has renewed such a licence after 1 October 2015 (when the changes took effect) could be allowed to upgrade their one year driver or operator licence to the longer duration of licence upon payment of the difference between the fee charged and the fee, as finally determined by the further review of fees that will be necessary, so that no-one will have suffered any financial detriment as a result of the delayed implementation of such new fees.

As the Council intends to follow the model used by Redcar and Cleveland Council, it should note that on 24 December 2015 officers of Redcar and Cleveland Council resolved not to pursue the proposed fee changes and to retain current fees whilst the Council retrospectively recalculates the fees in compliance with legislation following an objection from myself on behalf of another client.

In the circumstances, it occurs to me that yourselves and Redcar and Cleveland Council might be able to reduce the resource implications on both councils by pooling your resources and / or by buying in external expertise, as was done by Middlesbrough Council.

If you would care to discuss anything herein with me or my client, we would be pleased to engage with you in an attempt to ensure that the final result is one that everyone has confidence is correct.

If, despite the foregoing, this process is continued my client and / or I would welcome the opportunity to address, as appropriate, the Cabinet and or the General Licensing Committee about these issues. We would also be grateful if you would be so kind as to ensure that we are informed of all future taxi licensing fee and policy reports, irrespective of which part of the Council to which they are to be presented.

Please kindly acknowledge safe receipt of this letter of objection and request to address the Cabinet and / or the General Licensing Committee.



Yours faithfully,
David B Wilson
Licensing Consultant, Mediator and Trainer
Consulting Editor, Paterson's Licensing Acts 2015-16
Email: david.wilson@a2zlicensing.co.uk
Mobile: 07794 776383

Licensing Committee 01 March 2016 Taxi
Licensing Fees & Charges

APPENDIX D

**Mr David Wilson
A-Z Licensing
3 Biddick Hall Cottages
Lambton Park
Chester le Street
DH3 4PH**

Date : 25 January 2016
Please ask for : Mrs P Ross
Direct Line : 01325 405988
Your Reference : DBW/CW/DTA
Our Reference :
Document Name :

Dear David

Further to your letter dated 12 January 2016 concerning Darlington Borough Council's proposed Taxi Licensing Fees for 2016-2017. You have raised a wide range of issues and I propose to deal with each of your points in turn.

Scheme of Delegation:

Full Council approves all fees and charges, usually annually, as part of the Medium Term Financial plan. Had there not been any objections to the proposed taxi licensing fees they would have been put forward, via Cabinet, to a Special Council on 25 February 2016 in order to approve the fees and charges. I do agree with you however that the process for setting licensing fees and charges could be clearer and as a result I have discussed the issues that you and others raised during the consultation period with our legal services officers. They have advised that a delegation to the General Licensing Committee of the power to set fees and charges in respect of licensing would enable Members to consider matters in more detail and then to go on to agree the scale of fees and charges.

This change would allow greater flexibility for the setting of fees and charges and better enable in depth consideration to be given by members in a specialist committee when the need arises. This would be of particular benefit in allowing sufficient time to be given to consider any representations or objections to any proposal, or for complex issues to be considered in detail. It would enable a forum to both consider the objections and issues in detail and also to arrive at a determination of the fees and charges after doing so.

In order to do this Council will be asked to give delegated powers to the Licensing Committee to discharge this function and thus make the ultimate decision, rather than Full Council. I will notify you of the date that the General Licensing Committee will be meeting to consider these fees and charges in due course to enable you to attend and make any representations on behalf of your clients.

The process used to calculate fees.

My understanding from Redcar & Cleveland Council is that they did not use the North Tyneside model – this model was used by Middlesbrough. Darlington Council did not use either the North Tyneside model or the Redcar & Cleveland model, although there were some similarities with that used by Redcar & Cleveland in that the same considerations were used. The information report that was considered by this Council's Licensing Committee stated at 3.6: *“As part of the review of our fees and charges an exercise has been undertaken to establish the actual service costs based on a model similar to that used by Redcar and Cleveland Council – establishing the proportion of*

staff time spent on the taxi licensing function and the direct and indirect costs associated with delivering this service.”

The process we used was that which we had used earlier to calculate our Scrap Metal Dealers fees. Although many of the calculations are based on the 6 minute units to which you refer, where it was clear to us that the process would not take anywhere near 6 minutes a smaller time element was allocated. e.g. 0.01. A detailed copy of the calculations will be made available to Members in due course and I will also ensure that you are provided with a copy.

Issues arising from the Cardiff Case 2014

Darlington Borough Council has operated a trading account for taxi licensing for many years. All monies have been properly ring fenced to that account. In 2006 the Taxi trade challenged the taxi licensing accounts and as a result they were subject to an investigation by the District Auditor in 2007. The outcome of this investigation was a decision that £4000 had been incorrectly charged to the taxi licensing account. This had the result in reducing that year's deficit from £13k to £9k. There had been a net deficit from 2001 - 02 onwards, year on year but Members elected not to carry the deficit forward and disadvantage the trade. Sadly given, the current financial climate it is unlikely that Members will be able to be so generous in the event of any deficit in forthcoming years.

In later years there has been a small surplus which has been carried forward annually & has had the effect of retaining the fees rather than increasing them. The last increases of any kind were in 2010. The surplus was £20k in 2014-15 and this was carried over as part of the fees setting for 2015-16. The estimated outturn for 2015-16 (including the £20k surplus) is a deficit of around £1k which will be carried over into 2016-17. All of the above figures will feature in the report to finalise the fees in due course.

There is of course the issue of separate accounting for private hire and hackney carriages and I note there are varying professional views around the country as to whether the Cardiff judgement has the effect of requiring completely separate accounts for private hire and hackney carriage functions or whether it requires 2 accounts based separately on Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976. This is something that we believe needs to be resolved nationally. Darlington is unusual in that it has a small proportion of private hire trade & even the PH Operators tend to operate HCVs as well as PH vehicles.

By way of example a comparison of the Tees Valley LAs undertaken at 30 September 2015 showed the number of HC and PH vehicles for each of the Tees Valley Authorities as follows:

	Darlington	Hartlepool	Middlesbrough	Redcar & Cleveland	Stockton
Number HC vehicles	171	137	259	78	289
Number PH vehicles	76	165	644	318	486

I trust this information will reassure you in respect of both the accounting processes and the calculating of fees. As stated, once the report is ready to go before Members I will

advise you further & you will then have the opportunity to appear before them and raise any concerns you may have.

Finally, you will note that owner-drivers will be financially better off under the proposed fees. I note from your more recent correspondence that you represent 26 licensees of whom 23 are owner drivers so it does seem a little perverse that these 23 licensees have taken issue at something that will be of benefit to them. Perhaps you could clarify that these 23 are indeed wishing to take exception to the proposed fees and provide some rationale for such a decision.

Kind Regards

Pam Ross

Licensing, Parking, Trading Standards & CCTV Manager



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Mrs Pam Ross
 Manager
 Licensing, Parking, Trading Standards & CCTV
 Darlington Borough Council
 Town Hall
 Feethams
 Darlington
 DL1 5QT

Our Ref: DBW / DTA
 Your Ref:
 Date: 5 February 2016
 Please ask for: David Wilson

**Sent by First Class post and email
 to: licensing@darlington.gov.uk**

Dear Mrs Ross,

Objection of Darlington Taxi Association to Taxi Licensing Fees

Thank you for your letter dated 25 January 2016. For ease of reference, I shall adopt the very useful subject headings used by you in your aforementioned letter and add a couple of my own.

Scheme of Delegation

The proposed change to the Scheme of Delegation to empower Licensing Committee to determine fees in the future is most welcome, but will not remedy the ultra vires decision of Cabinet in the first place.

I note that you have said that, if there had been no objections to the proposed taxi licensing fees, they would have been “put forward, via Cabinet, to a Special Council on 25 February 2016 in order to approve the fees and charges”.

Unfortunately, such a process would have been of no legal effect in relation to the fees to be set under section 70 of the Local Government (Miscellaneous Provisions) Act 1976, because subsection (4) provides that the variation to fees will come into effect on the date specified in the notice.

In those circumstances, the variation to fees would be that determined by Cabinet on 8 December 2015 and is ultra vires for the reasons stated in my original letter dated 12 January 2016.

As well as rectify the Scheme of Delegation, I urge the Council to abort the current fee setting process, because even if a final decision is made by Licensing Committee or Council, that would not rectify the procedural irregularity.

If the objectors were to now collectively withdraw their objections, the Council would be left with fees unlawfully set by Cabinet on 8 December 2015, which it would be unable to implement, knowing full well that those fees were set unlawfully by virtue of being ultra vires Cabinet's powers.

The process used to calculate fees

Whilst clearly not as well expressed as I had intended, the point I was endeavouring to make was that Middlesbrough Council had used the North Tyneside Council model and that yourselves and Redcar & Cleveland Council had used similar models.

In principle, models based on and similar to the North Tyneside Council model for the calculation of fees are likely to be correct, subject to the accuracy of time recording and the making of reasonable adjustments to potentially inherent overrecording of time. I note that, when it was apparent that there would be such over-recording / overcharging, you have recorded shorter periods of time, such as 0.01, a mere 36 seconds.

Whilst the courts have long recognised the duty of officers to ensure that relevant material, which I submit must include information about the calculation of fees, is disclosed to decision-makers, this duty has been expanded upon by section 6.2(e) of the statutory Regulators' Code (BRDO/14/705), which came into force on 6 April 2014.

Although now largely irrelevant by virtue of the express provision of the Regulators' Code, the principle was recognised by the courts as long ago as 1998 in *R v South Glamorgan County Council ex parte Harding* [1998] COD 243.

In the circumstances, I would be obliged if you would kindly immediately disclose to me (and therefore to my clients) copies of the documents showing a summary of the time recording and calculation of the fees, together with copies of any other documents that are required to understand the calculation of fees.

Issues arising from the Cardiff case of 2014

I note the Council has "operated a trading account for taxi licensing for many years" (my emphasis), ie a single account and not a separate account for each licence or transaction type.

Whilst I appreciate that there are varying professional views around the country as to whether the Cardiff judgment has the effect of requiring completely separate accounts for the different licences or transaction types, I fear that those who do not accept this have not had the benefit of seeing the declaration made by Mr Justice Hickinbottom.

I appreciate that some people are prepared to disregard the judgment in this case, because the case was not contested and the court did not, therefore, have to decide the case for itself. Whilst that is undoubtedly true, the court did not have to make a declaration, but having done so, the law is as stated in that declaration unless overturned or distinguished in the future.

In the circumstances, I repeat my client's request that the Council retrospectively calculates surpluses and deficits for each of the separate accounts it ought to have been administering and, having done that, decide how to apply such surpluses and deficits to the fees it proposes to set for the future.

As I am sure you will appreciate, it is perfectly possible to have a balanced taxi licensing account with individual accounts having surpluses and deficits.

By way of example, in 2013, the District Auditor for Knowsley Metropolitan Borough Council found that the true position was that there ought to have been deficits on the hackney carriage driver and private hire driver accounts of £12,830 and £88,437 respectively and surpluses on the hackney carriage proprietor and private hire operator accounts of £35,204 and £127,838 respectively against Knowsley Council's claimed cumulative surplus of only £2,934.

Licensing Committee

Thank you for confirming that, if the Council proceeds with the current flawed fee setting process, you will provide me with a copy of the report to go before Members and that I will then have an opportunity to present my client's concerns to Members.

I would, however, repeat my request that the current process be abandoned, retrospective calculations undertaken and that any necessary adjustments be made to proposed fees, before presenting the current or revised fee proposals to the Licensing Committee.

Objective of the members of Darlington Taxi Association

Although I have not asked each member what has motivated them to object to the proposed fees, I understand they are concerned to make sure the fees are correctly calculated and set in accordance with the law.

I look forward to hearing from you further in due course.

Yours sincerely,

A handwritten signature in black ink that reads "David B. Wilson". The signature is written in a cursive, slightly slanted style.

David B Wilson

Licensing Consultant, Mediator and Trainer
Consulting Editor, Paterson's Licensing Acts 2015-16
Contributing Author, LexisPSL
Email: david.wilson@a2zlicensing.co.uk
Mobile: 07794 77638

TRADE MEMBERS REPRESENTED BY A-Z LICENSING

APPENDIX F

Surname	Forename	ADDRESS	Plate No	Badge Number
Atkins	Ronald	31 Ennerdale RoadDARLINGTONDL1 4DA	HCV016	HCD195
Barnes	Roger	8 Manor RoadDARLINGTONDL3 8ET	HCV069	DB015
Boyce	Eddie	5 Cotherstone Moor DriveDARLINGTONDL1 4SZ	HCV010	HCD022
Bricklebank	Avril	105 Hundens LaneDARLINGTONDL1 1JF	HCV118	HCD020
Brown	Mark	77 Glebe RoadDARLINGTONDL1 3EA	HCV066	HCD025
Chapman	Daryl	38 Coronation GardensStaindropDL2 3LA	HCV051	HCD149
Durance	Neal	105 Hundens LaneDARLINGTONDL1 1JF	HCV118	HCD052
Dove	Graham	35 Chapel StreetMIDDLETON ST GEORGEDARLINGTONDL2 1DA	HCV036	HCD149
Giroux	Roland	16 Ullswater AvenueDARLINGTONDL1 4TF	HCV161	HCD113
Grunblatt	Eric	53 Darrowby DriveDARLINGTONDL3 0GZ	HCV144	HCD108
Harpin	Mark	69 Chandos StreetDARLINGTONDL3 6QX	HCV107	HCD145
Inston	Ian	49 Falmer RoadDARLINGTONDL1 4AY	HCV006	HCD169
Irving	James	22 Duxford Grove Darlington DL3 0GH	None	HCD162
Jolly	Terrence Anthony	24 Jedburgh Grove Darlington DL3 9XD	None	HCD057
Kimyongur	Mehmet A	60 Chestnut DriveDARLINGTONDL1 4RS	HCV230	HCD124
Leighton	Alex	1 Egton WayDARLINGTONDL1 3PL	HCV105	HCD006
McMillan	Billy	16 Trent PlaceDARLINGTONDL1 5TX	HCV103	HCD053
Marriner	Christopher	33 Chandos StreetDARLINGTONDL3 6QX	HCV299	HCD215
Martin	Tony	111 Park LaneDARLINGTONDL1 5AQ	HCV052	DB007
Mate	Joseph	113 East Mount RoadDARLINGTONDL1 1LE	HCV084	HCD138
McArthur	Roy	11 Colorado GroveDARLINGTONDL1 2YW	HCV009	HCD142
Mudd	Peter	79 Longfield RoadDARLINGTONDL3 0HU	HCV003	HCD009
Park	Russel Lloyd	11 Heslop DriveDARLINGTONDL1 5TQ	HCV110	HCD092
Stoddart	John	8 Doyle WaySTOCKTON-ON-TEESTS19 7JH	HCV114	HCD098
Thubron	Simon	46 The BroadwayDARLINGTONDL1 1EJ	HCV228	HCD129
Trotman	Stephen	36 Aldrough Walk Darlington DL1 4TT	None	HCD147

Driver Licence Grant - 1 year

TIME (10THS)

Action	LM	PLO	LO	LEO	LA
Pre- Application advice and Guidance				0.1	0.05
Receipting Application and Initial Checking					0.1
Photocopying and Printing					0.09
Fee reconciliation/processing/banking		0.05	0.11	0.1	0.1
DBs Completion, Checking and Signing				0.3	0.3
Processing onto Uniform					0.11
Booking knowledge test					0.1
Conduct knowledge test and grade paperwork				1.5	0.03
Check DBS and DVLA and Medical				0.2	
Production of licence, badges etc					0.11
Application checking and signing		0.05			0.09
Issue Licence and Badge					0.12
General Advice and Information				0.066	0.01
File and File maintenance			0.01	0.01	
Total officer time	0.00	0.10	0.12	2.28	1.21

Base Cost £111.42

Additional Operational Costs Levied to 16009 divided by total number of licences (622)

Additional Costs £33.65

Central Costs £64.92

Total Operational Costs £98.57

Fee Calculation: Base Cost + Additional Costs = **£209.99**

Licence Fee £210.00

NB PH Driver licence will attract an additional £25.00 levy to address deficit
Drivers wishing to purchase a Dual Licence £235.00 (ie cost of PHD Licence)

Private Hire Driver Grant fee **£235.00**

Driver Licence Renewal - 1 year

TIME (10THS)

Action	LM	PLO	LO	LEO	LA
Generate and allocate appointment					0.05
Renewal Letter and Mail Merge					0.1
Pre application advice and guidance					0.01
Receipting application and initial checking					0.1
Photocopying and Printing					0.1
Fee reconciliation/processing/banking		0.02	0.01	0.02	0.1
Update Uniform					0.05
Check Driver File					0.05
Check DBS / DVLA and Medical				0.05	
Production of licence, badges etc					0.1
Application checking and signing		0.04			
Issue Licence and Badge					0.05
File and File maintenance				0.1	0.01
Total officer time	0.00	0.06	0.01	0.17	0.72

Base Cost £26.46
Additional Operational Costs Levied to 16009 divided by total number of licences (622)
Additional Costs £33.65
Central Costs £64.92
Total Operational Costs £98.57
Fee Calculation: Base Cost + Additional Costs = **£125.03**

Licence Fee £125.00

NB PH Driver licence will attract an additional £25.00 levy to address deficit Drivers wishing to purchase a Dual Licence £235.00 (ie cost of PHD Licence)

Private Hire Driver Renewal fee £150.00

Driver Licence Renewal - 2 year

TIME (10THS)

Action	LM	PLO	LO	LEO	LA
Generate and allocate appointment					0.05
Renewal Letter and Mail Merge					0.1
Pre application advice and guidance					0.01
Receiving application and initial checking					0.1
Photocopying and Printing					0.1
Fee reconciliation/processing/banking		0.02	0.01	0.02	0.1
Update Uniform					0.05
Check Driver File					0.05
Check DBS / DVLA and Medical				0.05	
Production of licence, badges etc					0.1
Application checking and signing		0.04			
Issue Licence and Badge					0.05
File and File maintenance				0.1	0.01
Total officer time	0.00	0.06	0.01	0.17	0.72

Base Cost £26.46
Additional Operational Costs Levied to 16009 divided by total number of licences (622)
Additional Costs £67.30
Central Costs £129.84
Total Operational Costs £197.14
Fee Calculation: Base Cost + Additional Costs = **£223.60**

Licence Fee £225.00

**NB PH Driver licence will attract an additional £25.00 levy to address deficit
 Drivers wishing to purchase a Dual Licence £ 250.00 (ie cost of PHD Licence)**

Private Hire Driver Renewal fee £250.00

Driver Licence Grant - 3 year

TIME (10THS)

Action	LM	PLO	LO	LEO	LA
Generate and allocate appointment					0.05
Renewal Letter and Mail Merge					0.1
Pre application advice and guidance					0.01
Receipting application and initial checking					0.1
Photocopying and Printing					0.1
Fee reconciliation/processing/banking		0.02	0.01	0.02	0.1
Update Uniform					0.05
Check Driver File					0.05
Check DBS / DVLA and Medical				0.05	
Production of licence, badges etc					0.1
Application checking and signing		0.04			
Issue Licence and Badge					0.05
File and File maintenance				0.1	0.01
Total officer time	0.00	0.06	0.01	0.17	0.72

Base Cost £111.42

Additional Operational Costs Levied to 16009 divided by total number of licences (622)

Additional Costs £100.95

Central Costs £194.76

Total Operational Costs £295.71

Fee Calculation: Base Cost + Additional Costs = **£407.13**

Licence Fee £405.00

**NB PH Driver licence will attract an additional £25.00 levy to address deficit
Drivers wishing to purchase a Dual Licence £ 430.00 (ie cost of PHD Licence)**

Private Hire Driver Renewal fee **£430.00**

Driver Licence Renewal - 3 year TIME (10THS)

Action	LM	PLO	LO	LEO	LA
Generate and allocate appointment					0.05
Renewal Letter and Mail Merge					0.1
Pre application advice and guidance					0.01
Receipting application and initial checking					0.1
Photocopying and Printing					0.1
Fee reconciliation/processing/banking		0.02	0.01	0.02	0.1
Update Uniform					0.05
Check Driver File					0.05
Check DBS / DVLA and Medical				0.05	
Production of licence, badges etc					0.1
Application checking and signing		0.04			
Issue Licence and Badge					0.05
File and File maintenance				0.1	0.01
Total officer time	0.00	0.06	0.01	0.17	0.72

Base Cost	£26.46	
Additional Operational Costs Levied to 16009 divided by total number of licences (622)		
Additional Costs	£100.95	
Central Costs	£194.76	
Total Operational Costs	£295.71	
Fee Calculation:	Base Cost + Additional Costs = £322.17	<u>Licence Fee £320.00</u>

NB PH Driver licence will attract an additional £25.00 levy to address deficit
 Drivers wishing to purchase a Dual Licence £ 345.00 (ie cost of PHD Licence)

Private Hire Driver Renewal fee **£345.00**

Hackney Carriage Vehicle Licence Renewal 1 yr TIME (10THS)

Action	LM	PLO	LO	LEO	LA
Renewal Letter mail merge and printing				0.08	0.2
Check vehicle against policy requirements				0.09	
Pre-application advice				0.1	0.09
Pre-application forms assistance				0.15	0.2
Receipting application and initial checking					0.11
Photocopying and Printing					0.22
Fee reconciliation/processing/banking and Audit		0.1	0.05	0.1	0.21
Update Uniform				0.09	0.2
Booking of Vehicle Tests x 2					0.23
Maintenance of Vehicle Test Calendar			0.09	0.03	0.22
Consideration of application				0.08	
Production of licence and licence plate					0.156
Application checking and signing		0.05			0.11
Check application v file records					0.13
Post licence documentation checking				0.1	0.18
Issue licence and plate					0.2
Filing and File Maintenance		0.03	0.03	0.41	0.8
Insurance/MOT/V5 check excluding postage				0.9	0.37
Post licence annual inspection x2				2.08	0.1
Total Officer Time	0.00	0.18	0.17	4.21	3.73

Base Cost £241.41

Additional Operational Costs Levied to 16009 divided by total number of licences (622)

Rank Maintenance and Consultation £15.38

Additional Costs £33.65

Central Costs £64.92

Total Operational Costs £113.95

Fee Calculation: Base Cost + Additional Costs = **£355.36**

Licence Fee £355.00

Private Hire Vehicle Licence - Grant 1yr

TIME (10THS)

Action	LM	PLO	LO	LEO	LA
Pre-Application Advice and Guidance				0.1	0.09
Pre-Application Forms Assistance				0.2	0.2
Receive Application and Initial Checking					0.9
Photocopying and Printing					0.22
Fee Reconciliation/Processing/Banking and Audit		0.1	0.05	0.1	0.21
Processing onto Uniform				0.09	0.2
Booking of Vehicle Tests X 2					0.23
Maintenance of Vehicle Test Calendar			0.09	0.03	0.22
Consideration of Application				0.08	
Production of Licence, Licence Plates, Decals and Tariff Card					0.24
Application Checking and Signing		0.07			0.11
Vehicle Inspection - Pre Licence				0.3	0.06
Post Licence Documentation Check				0.1	0.18
Issue Licence and Plates					0.2
Filing and File Maintenance		0.05	0.08	0.5	0.9
Insurance/MOT/V5 Check Excluding Postage				0.9	0.37
Post Licence Annual Inspection X2				2.08	0.1
Total Officer Time	0.00	0.22	0.22	4.48	4.43

Base Cost £271.05
Additional Operational Costs Levied to 16009 divided by total number of licences (622)
Additional Costs £33.65
Central Costs £64.92
Total Operational Costs £98.57
Fee Calculation: Base Cost + Additional Costs = £369.62

Licence Fee £370.00 + £25.00*

* Additional levy to address deficit – one year fee. = **£395.00**

Private Hire Vehicle Licence Renewal 1yr TIME (10THS)

Action	LM	PLO	LO	LEO	LA
Renewal Letter mail merge and printing				0.08	0.2
Check vehicle against policy requirements				0.09	
Pre-application advice				0.1	0.09
Pre-application forms assistance				0.15	0.2
Receipting application and initial checking					0.11
Photocopying and Printing					0.22
Fee reconciliation/processing/banking and Audit		0.1	0.05	0.1	0.21
Update Uniform				0.09	0.2
Booking of Vehicle Tests x 2					0.23
Maintenance of Vehicle Test Calendar			0.09	0.03	0.22
Consideration of application				0.08	
Production of licence and licence plate					0.156
Application checking and signing		0.05			0.11
Check application v file records					0.13
Post licence documentation checking				0.1	0.18
Issue licence and plate					0.2
Filing and File Maintenance		0.03	0.03	0.41	0.8
Insurance/MOT/V5 check excluding postage				0.9	0.37
Post licence annual inspection x2				2.08	0.1
Total Officer Time	0.00	0.18	0.17	4.21	3.73

Base Cost £241.41

Additional Operational Costs Levied to 16009 divided by total number of licences (622)

Additional Costs £33.65

Central Costs £64.92

Total Operational Costs £98.57

Fee Calculation: Base Cost + Additional Costs = £339.98 + £25.00*

Licence Fee £340.00 + £25.00*

* Additional levy to address deficit – one year fee. = £365.00

Private Hire Operator – Grant 1 year

TIME (10THS)

Action	LM	PO	LO	LEO	LA
pre-application advice		0.05		0.11	0.1
receive application & initial checking				0.1	0.15
Photocopying and Printing					0.2
Fee reconciliation/processing/banking		0.05		0.05	0.1
Processing onto Uniform					0.2
DBS		0.05		0.07	0.21
Site Visit				0.54	0.08
Book Knowledge Test				0.08	
Conduct and mark test				1.35	
Committee Process	2.1	2.78			0.51
Produce Licence					0.1
Application checking and signing		0.21			
Issue Licence					0.08
Inspection x 1				1.5	0.02
Filing and file maintenance			0.04	0.11	0.21
Total officer time	2.10	3.14	0.04	3.91	1.96

Base Cost £432.20

Additional Operational Costs Levied to 16009 divided by total number of licences (622)

Additional Costs £33.65

Central Costs £64.92

Total Operational Costs £98.57

Fee Calculation: Base Cost + Additional Costs = **£530.77**

Licence Fee £530.00+ £25.00*

* Additional levy to address deficit – one year fee. = **£555.00**
Plus Vehicle Operating Fee @ £10.00 per vehicle

Private Hire Operator - Grant - 5 Year

TIME (10THS)

Action	LM	PLO	LO	LEO	LA
pre-application advice		0.05		0.11	0.1
receive application & initial checking				0.15	0.15
Photocopying and Printing					0.2
Fee reconciliation/processing/banking		0.05		0.05	0.1
Processing onto Uniform					0.2
DBS		0.05		0.07	0.21
Site Visit				0.54	0.08
Book Knowledge Test				0.08	
Conduct and mark test				1.35	
Committee Process	2.1	2.78			0.5
Produce Licence					0.1
Application checking and signing		0.21			
annual check and declaration				0.8	
Issue Licence					0.08
Inspections				6.81	0.032
Filing and file maintenance			0.199	0.55	1.05
Total officer time	2.10	3.14	0.20	10.51	2.80

Base Cost £669.54

Additional Operational Costs Levied to 16009 divided by total number of licences (622) x 5

Additional Costs £168.25

Central Costs £324.60

Total Operational Costs £492.85

Fee Calculation: Base Cost + Additional Costs = **£1162.39**

Licence Fee £1160.00 + £25.00*

* Additional levy to address deficit – one year fee. = **£1185**
 Plus Vehicle Operating Fee @ **£50.00** per vehicle

APPENDIX H

TAXI LICENSING (16009) BUDGET AND PROJECTED OUTTURN 2015-16

		Original Budget £	Projected Outturn £
Employee Costs	Description		
	Salaries	91469	90740
	Salaries - Superannuation	15473	15350
	Salaries - NI	7831	7750
	Insurances - Employers Liability	1694	1690
	Training Expenses	1590	1840
	Total employees	118057	117370
Premises Costs	Operational Buildings Recharge	3642	3692
	Total premises	3642	3692
Transport Costs	Mileage & Transport allowances	866	870
	Total transport	866	870
Supplies & Services			
4009	Equipment	5770	5770
4507	Protective clothing	100	100
4001	Books & publications	300	300
7014	Printing, Stationery inc	1560	2400
4094	Printer Consolidation Charge		
4037	Professional fees & Consultancy	510	500
4021	Computer equipment	440	440
4025	Computer software - maintenance	1330	1330
4048	Telephone Recharge	103	0
4046	Subscriptions	92	90
4030	Advertising	1537	1540
4850	Supplies & services	1800	1800
	Total supplies & Services	13542	14270

Budget Description £		Original	Projected
Central Recharges		Budget £	Outturn £
	Management costs	4443	4600
7801	Departmental/Accounting Support	1728	4090
7832	Xentrall Transactional finance	635	635
7844	Legal Services	3907	5130
7004	HR, Policy Development and IR	2587	2580
7002	IT Services (inc web team)	2528	2195
7840	Occupational Health	282	190
7031	H & Safety Unit	146	290
7811	Postage	653	610
7836	Town Hall support	1146	1248
77831	Performance & Development	N/A	1750
	Total central support	18055	23318
Total Charges		154162	159520
	Cost HCs (65%) £103688	Cost PH (35%) - £55832	
Anticipated Income			
	Hackney Carriage driver licence	-17575	
	Hackney Carriage vehicle licence	-68470	
	HC Rear Plates	-2505	
	Miscellaneous HC income (non VAT)	-1300	
	TOTAL HC INCOME	-89850	
	65% surplus from 2014-15	13373	
	HC INCOME BALANCE	-103223	
	HC estimated deficit 2015-16	465	
Anticipated Income			
	Private Hire driver licence	-11065	
	Private Hire vehicle licence	-29110	
	PHV Rear Plates	-1065	
	Private Hire Operator licence	-1200	
	Miscellaneous PH Income (Non VAT)	-700	
	TOTAL PH INCOME	-43140	
	35% surplus from 2014-15	7201	
	PH INCOME BALANCE	50341	
	PH estimated deficit 2015-16	5491	

(also see Appendix J for detailed income)

TAXI LICENSING- ESTIMATED INCOME AND EXPENDITURE 2016-17

	Annual Budget	
Subjective	Description	
1000	Salaries	74524
1060	Salaries - Superannuation	12180
1050	Salaries - NI	8017
1710	Insurances - Employers Liability	1370
1707	Training Expenses	650
	Total employees	96741
Premises Costs	Operational Buildings Recharge	3730
	Total premises	3730
Transport Costs		
3007	Mileage allowances	700
	Total transport	700
Supplies and Services Costs		
4009	Equipment	5770
4507	Protective clothing	100
4001	Books and publications	100
7014	Printing & Stationery (inc printer consolidation charge)	1700
4037	Professional fees & Consultancy	200
4021	Computer equipment	440
4025	Computer software - maintenance	1330
4048	Telephone Costs	0
4046	Subscriptions	90
4030	Advertising	1540
4850	Supplies & services	800
	Total suppliers and services	12070

Central Support Costs		Annual Budget
7801	Management Costs	4650
7832	Departmental/Accounting Support	4155
7844	Xentrall Transactional Finance	640
7017	Legal Services	5180
7004	HR	2610
7002	IT Services (inc web team)	2220
7840	Occupational Health	190
7031	H & Safety Unit	290
7811	Postage	620
7836	Town Hall Support	1260
7831	Performance & Development	1770
	Total central support	23585
	TOTAL COSTS	£ 136826

Cost HCs (65%) £88937

Cost PH (35%) - £47889

Anticipated Income

Hackney Carriage driver licence	-30500
Hackney Carriage vehicle licence	-60705
HC Rear Plates	-2565
Miscellaneous HC income (non VAT)	-1300
TOTAL HC INCOME	-95070
Less estimated deficit from 2015-16	465
HC INCOME BALANCE	-94605
HC estimated surplus 2016-17	-5668

Private Hire driver licence	-21300
Private Hire vehicle licence	-27740
PHV Rear Plates	-1140
Private Hire Operator licence	-1885
Miscellaneous PH Income (Non VAT)	-700
TOTAL PH INCOME	-52765
Less estimated deficit from 2015-16	5491
PH INCOME BALANCE	47274
PH estimated deficit 2016-17	615

(also see Appendix J for detailed income)

RETROSPECTIVE BUDGET CALCULATIONS 2015-16

APPENDIX J

2 separate regimes for HC & PH – figures as follows:

BUDGET YEAR 2015-16:

LICENCE TYPE	£ EXPECTED INCOME 2015-16 (CURRENT FEES)	£ LICENCE FEE PAID	LICENCE TYPE	£ EXPECTED INCOME 2015-16 (CURRENT FEES)	£ LICENCE FEE PAID
EXPENDITURE	103688			55832	
HCD	17575	70	PHD	11065	70
HCV	68470	410	PHV	29110	375+25
Plates	2505			1065	
Miscellaneous Income	1300			700	
			PHO	1200	300
Income Total	89850			43140	
Surplus 2014-15	13373			7201	
TOTAL INCOME	103223			50341	
Balance	465 deficit			5491 deficit	

TOTAL LICENCES -622 (BASED on 30 SEPTEMBER 2014 FIGURES)

HC licences – Drivers 211 + 26 (50% of dual badges) = 237, Vehicles – 167

TOTAL in HC Regime – 237 + 167 = 404 + 65% of total licences

PH licences – Drivers 118 + 25 (50% of dual badges) = 143, Vehicles – 71, Operators – 4

TOTAL in PH Regime – 143 + 71 + 3 = 217 = 35% of total licences

Cost of service £159520 (HC 65% = £103688; PH 35% = £55832)

CALCULATIONS BUDGET YEAR 2016-17:

Licensing Committee 190416 - Taxi Licensing Fees & Charges - 44 of 56 -

2 separate regimes for HC & PH – figures as follows:

LICENCE TYPE	£ INCOME REVISED LICENCE FEES	£ LICENCE FEE PAID	LICENCE TYPE	£ INCOME REVISED LICENCE FEES	£ LICENCE FEE PAID
EXPENDITURE	88937			47889	
HCD	30500	125	PHD	21300	150
HCV	60705	355	PHV	27740	365
Plates	2565		Plates	1140	
			PHO	1885	375 + £10 per vehicle
Miscellaneous Income	1300			700	
Income total	95070			52765	
Less deficit 2015-16	465			5491	
TOTAL INCOME	94605			47274	
Balance	5668 surplus			615 deficit	

TOTAL LICENCES – 636

TOTAL in HC Regime – 244 drivers (215 + 29 i.e. 50% of dual badges) + 171 vehicles= 415

TOTAL in PH Regime – 142 drivers (114 + 28 i.e. 50% of dual badges) + 76 vehicles + 3 operators= 221

HC % total licences (415/622) = 65%

PH % total licences (221/636) = 35%

Cost of Service 2016-17 - £137126 (HC @ 65% = £88937; PH @ 35% £47889)

APPENDIX K

BUDGET YEAR 2016-17:

OVERALL INCREASE/DECREASE IN LICENCE COSTS BASED ON PROPOSED FEES

HC/PH DRIVER GRANT	HC/PH DRIVER RENEWAL
Currently £70	Currently £70
Proposed £210/ £235	Proposed £125/£150
i.e. £140/£165 further cost	i.e. £55/£80 further cost

DUAL HC & PH DRIVER GRANT	DUAL HC & PH DRIVER RENEWAL
Currently £110	Currently £110
Proposed £235	Proposed £150
i.e. £125 further cost	i.e. £40 further cost

HC OWNER DRIVER GRANT
Currently £410 HCV grant + £70 HC driver grant = £480
Proposed £385 HCV grant + £210 HC driver grant = £595
i.e. further £115 cost

HC OWNER DRIVER RENEWAL
Currently £410 HCV renewal + £70 HC driver renewal = £480
Proposed £355 HCV renewal + £125 HC driver renewal = £480
i.e. neutral

PHV OWNER DRIVER GRANT
Currently £375 PHV grant + £35 Operating levy + £70 PH driver = £480
Proposed £395 PHV grant + £235 PH driver grant = £630
i.e. further £150 cost

PHV OWNER DRIVER RENEWAL	
Currently £375 PHV renewal + £35 Operating levy	
+ £70 PH driver renewal	= £480
Proposed £365 PHV renewal + £150 PH driver renewal	= £515
i.e. £35 further cost	

PRIVATE HIRE OPERATOR GRANT
Currently £300
Proposed £555 + £10 per vehicle
i.e. further cost of £255+ £10 per vehicle (NB £10 vehicle cost likely to be reclaimed by Operator from vehicle proprietor)

PRIVATE HIRE OPERATOR RENEWAL
Currently £300
Proposed £375+ £10 per vehicle
i.e. further cost of £75 + £10 per vehicle (NB £10 vehicle cost likely to be reclaimed by Operator from vehicle proprietor)

TAXI LICENSING - OFFICER TIME ALLOCATION 2016-17

The proposed proportion of Officer time allocated to the Taxi Licensing budget is as follows:

POST	2015-16	2016-17
Licensing Manager	40%	30%
Principal Licensing Officer	45%	35%
Licensing Enforcement Officer (x2)	65%	50%
Licensing Officer	25%	20%
Licensing Admin Assistant (x2)	50%	50%

APPENDIX M

ANTICIPATED TOTAL INCOME 2016-2017 BASED ON PROPOSED FEES

(Figures based on 30 September 2015 licence numbers)

Drivers HC (inc 29 formerly combined)	244 @ £125	£30500
Drivers PH (inc 28 formerly combined)	142 @ £150	£21300
Hackney Carriage Vehicles	171 @ £355	£60705
Private Hire Vehicles	76 @ £365	£27740
Annual Rear Plate	247 @ £15	£3705
PH Operators	3 @ £375 +£10 per vehicle (76 vehicles @ £10)	£1885
Incidental Income		£2000
	Total	£147835

The licence numbers fluctuate on a monthly basis dependent on licence renewals.

The above numbers are based on the position at 30 September 2015 and may change. Such fluctuations mean that a proposed budget can always only be set on the basis of the number of licences issued at the time of preparing the proposed increases.

Key Information:

All PH licences have a £25 levy added in 2016-17 to eradicate the 2015-16 deficit

Driver Licence fees last increased on 01 April 2006

Vehicle licence fees last increased on 01 April 2010

PH Operator fees last increased on 01 April 2010

PROPOSED FEES WEEKLY COST TO TRADE 2016-17

APPENDIX N

(NB this reflects only the actual licence cost to the trade, not the cost of running their businesses).

	HC	PH
Initial Driver Licence Cost	£210	£235
DBS check	£44	£44
DSA	£80	£80
Medical (average cost is £50-£120)	£100	£100
Total Cost of New Driver	£434	£459
Cost per week (First Year)	£8.35	£8.83
Renewal Driver licence annual cost for next 2 years***	£125	£150
Cost per week	£2.40	£2.89

***** DBS required every 3 years.**

Medical required every 5 years from 45 years of age & annually from 65 years of age

Initial Hackney Carriage Vehicle Licence Cost	£385
Rear Plate	£15
Front Plate (One off fee)	£10
DBC In house vehicle test (2 @ £50)	£100
Door Discs	£10
Tariff card	£2
Total Cost (First Year)	£522
Cost per week	£10.04

Renewal HC licence cost	£355
Rear Plate	£15
DBC In house vehicle test (2 @ £50)	£100
Total Cost subsequent years	£470
Cost per week	£9.04

Initial Private Hire Vehicle Licence Cost	£395
Rear Plate	£15
Front Plate (One off fee)	£10
DBC In house vehicle test (2 @ £50)	£100
Total Cost (First Year)	£520
Cost per week	£10

Renewal PHV licence cost	£365
Rear Plate	£15
DBC In house vehicle test (2 @ £50)	£100
Total Cost subsequent years	£480
Cost per week	£9.23

PH Operator Licence Initial licence cost	£555 + £10 per vehicle
Cost per week	£10.67 + 19p per vehicle
Renewal PHO licence cost	£375 + £10 per vehicle
Cost per week	£7.21 + 19p per vehicle

OBJECTIONS TO FEES INCREASES**Appendix 2a**

Mr T Jolly –Hackney Carriage Driver licence HCD057

“I am bloody boiling, you are hitting taxi drivers again. I don't know how you have the nerve to put up the taxi badges to £125 where the hell do you think drivers are going to find the extra £50. Drivers who half the money with the taxi owner are lucky to make £25 to £30 for themselves, like us working the ranks. You want to come and drive a taxi on the ranks and see how hard it is to make money. You say you have a deficit, well that's not the taxi drivers fault, it's well known through drivers in this town that the council has never liked taxi drivers and have done things to them in the past lie a few years ago. Rank drivers did not want a meter rise but good old Darlo council said you are getting it cost you have not had a rise for four years. The drivers didn't want it cos it would affect trying to pick up fares up on the rank putting the tariff up. In my opinion you want to get any extra money off the ones in the council who are on over £100 grand a year instead of hitting the lower paid worker like us taxi drivers. But the same old case (keep the rich rich and the poor poorer). Cos half of them are not worth what they are been paid. No wonder the people of Darlington have not got a good word about Darlington Council, cos they put up the rents + council tax up when most people are on benefits or have not got the money. Another thing you go on about the Cardiff case, they don't run Darlington Council and have nothing to do with Darlington. We run it, so I don't see why we have to go on what they have done down there. As you can see from this letter I feel very strong about this matter, I thought £70 a badge was dear enough, but £125 you lot are ripping our eyes as taxi drivers, I know Dick Turpin wore a mask when he robbed people, but you are doing quite openly without one. I will now have to consider whether my future is worth doing taxis, I also think that if you put the badges up anyone who has a dual badge will probably consider only getting a hackney badge out cos of the £235 and you will lose out. I think we should do a protest with the cars on a really busy day and night to mess everything up in the town centre to show Darlington people how Darlington Council is treating taxi drivers once again.

PS. A few years ago Darlington Council wrote off £230 thousand in rent arrears, why can't you do the same with the money this council has lost and leave the badges at £70 and just put them up by £5 a year cos when you add up the three to get your badge at once its bloody expensive enough. CRB £44, Medical £70, Badge £70 = £184

All I can say at the end of this is I know where this letter will be going after you have read it, in the bin and you will be thinking it doesn't matter what Mr Jolly says, its going up and Mr Jollys reply to that is I can now tell you, I hope you lot can sleep at night. If you want extra money ask David Cameron he likes giving money away to foreign countries when we are struggling in this country.”

APPENDIX 2 (cont)

Appendix 2b

Mrs Kirsty Vickers Hackney Carriage Driver 067

“Re: Objection to proposed increase for badges

I am writing with reference to the above. This hike in price of £55 is ridiculous. Darlington Borough Council is closing the town and smaller library as well as the indoor market and I feel that we the taxi driver who get paid per job not on salary or hourly rate are getting punished for it. Where will this extra £55 go once it's in the hands of the council as per year this is a massive amount of money. It's ok to state that you have reduced the plate amount but this will only affect the owners not drivers. Why can't you look at who owns why can't you look at who owns, reduce their plate payment but increase their badge, if they have one.

If you're still going to increase all badges then why can't we have a rank marshal seeing as though it's the rank cars that take the not so desirable, sometimes drunk, disorderly, abusive and mostly irrational customers home on a Friday and Saturday night. We take these people home to keep our town centre as free from trouble as possible, this isn't the case when they are kicking off on the rank before even getting in the taxis.

I feel it us the taxi driver that deserves a bit more protection out there, even more so on bank holidays, Christmas and New Year.

I want a breakdown of where and what this £55 per badge will be going or being spent on as it's too high of a price hike especially for single mums, raising children and trying to make ends meet. I look forward to your detailed response and not just a standard letter.”

Appendix 2c

Objections By1AB Taxis Ltd to Proposed Licence Fee Increases

Dear Licensing Committee

In response to your letter dated 2nd March 2016 concerning the proposed licence fee increase in particular the increase levied against private hire vehicles and the licensed operators. 1AB Taxis Ltd are the largest taxi service provider in Durham and Darlington boroughs, we have a fleet of over 105 vehicles, the fleet is made up of 63% private hire and 37% hackney, the company provides employment opportunities for over 250 people in and around the borough.

In an ever increasing business market it is important that as a company we are allowed to develop and grow, this growth has a positive impact on the town providing a substantial income for Darlington borough council in license plate fees, driver licensing and ancillaries, it provides a disposable income for our drivers who in turn support local business in the spending of that disposable income.

APPENDIX 2(cont)

Having spent some time digesting your proposed rises as a company we strongly challenge these proposed increases and raise the following questions:

- ***How can a 105% increase be justified on the issue of a drivers licence.***
- ***How can a 110% increase be justified on the issue of a combined licence***
- ***How can the council seriously consider reducing the cost of a hackney licence plate and then increase the cost of a Private Hire plate to compensate this reduction.***
- ***How can the increase in a Private Hire operators licence be justified with a 90% increase in actual cost plus an additional £10 levy per vehicle operating under that licence.***
-

We appreciate costs rise, however, these proposed excessive rises appear to be nothing more than a knee jerk reaction by the licensing office following the challenge from Darlington hackney operators as a result of the 'Cardiff Case'.

The proposed rises appear to be a plan to help compensate the councils shortfall in revenue if the ongoing challenge is successful, in short a stealth tax against all taxi drivers, taxi owners and taxi companies, the result of which could see drivers and owners licensing themselves in neighbouring boroughs and under the changes in legislation, still legally permitted to operate in Darlington without the borough benefitting financially, in short potentially creating a huge loss of revenue to the borough through lost fees. In addition to the above comments, I would challenge as to what the current licence fees are actually paying for, I raise this because of the following current and ongoing issues:

- *The difficulty in getting new drivers tested, currently only one exam per month with limited places.*
- *The difficulty in getting vehicles in for examination and plating due to staff shortages within the licensing office*
- *Lack of licensing enforcement during the weekend periods.*
- ***Generally a poor service from licensing due to staff shortages. (The staff generally do an excellent job under difficult circumstances and are clearly being inundated with a workload above the capabilities of the team)***

In short the current service as licence fee payer's, falls far short of the standard we would expect on current fee rates, any proposed changes to increase the licencing costs would need to be compensated with an overall improved service from the boroughs licensing office as follows:

- *An increase in the number of driver licence examinations two per month minimum*
- *An increase in availability dates for vehicle plating*
- *An increase in staff numbers within the licensing office dedicated to taxi licensing within the borough.*

APPENDIX 2(cont)

In summary whilst we recognise perhaps the need for an increase across the board with regard to fees, we consider the amounts to be excessive, unreasonable and disproportionate. In support of any increase we would expect to see a greater improvement of the services provided by the licensing office.

A-Z Licensing

Appendix 2d

Objection of Darlington Taxi Association to Taxi Licensing Fees

I refer to my previous exchange of correspondence with you in regard to the above and to the report to the Meeting of Licensing Committee on 1 March 2016.

While this is a formal objection to the advertised taxi licensing fees, I would like to take this opportunity to thank officers and Members for rectifying the process of fee setting by having Council delegate its powers in this regard to the Licensing Committee.

With regards to the objection, I shall address these as being: (i) issues arising from the Cardiff case; and (ii) in relation to certain aspects of the fee calculations.

Issues arising from the Cardiff case of 2014.

It is noted from paragraph 6.5.3 of the report that officers take the view that only two accounts are necessary: one for each regime, in other words one for the private hire regime and one for the hackney carriage regime and that fees from one regime cannot be used to subsidise the other regime and vice-versa.

It is respectfully submitted that the wording in paragraph 4.2 of the declaration “that any surplus or deficit accrued under each of those hackney carriage and private hire regimes, **and between each licence within those regimes...**” (my emphasis) makes clear that the High Court expects every council to keep separate accounts for each licence type to ensure that fees from vehicle licensing in one of those regimes is not capable of being used to subsidise driver licensing within that same regime and vice-versa. Surely separate accounts for each licence type within each regime is the only way to achieve this in practice and the only way to demonstrate it in a clear and transparent manner?

If the accounts are not separated in this fashion: one account for vehicle licensing in each regime, one for driver licensing in each regime and one for operators, then how can the fee income and expenses be separated – to use the words of the declaration- “between each licence within those regimes?”

I repeat my request that the Council retrospectively calculates surpluses and deficits for each of the separate accounts it ought to have been administering and abandons the current proposed fee changes until this calculation has been done because a significant surplus or deficit on any of the accounts might result in fees being reduced or increased to reflect such surplus or deficit.

It is clear from the report that private hire driver licences are to be subject to a £25 levy to address the deficit on that account, but without any clear explanation as to why, bearing in mind that the Council has now grouped private hire vehicle, driver and operator licensing together into a single account.

Fee calculation

I will address specific points in relation to the calculation of fees that are evident from the aforementioned report and hope to address them in a logical sequence:

i. In relation to the Driver Licence Grant (1 year) the report specifies that 1.5 units of time is spent by a Licensing Enforcement Officer and 0.03 unit of time by a Licensing Assistant in respect of 'Conduct knowledge test and grade paperwork. 'We understand that the knowledge test is paid for separately from the licence fee and so should not be included here: to do so would result in this function being double-charged. The Base Cost attributed to the one year and three year grants are identical (which is to be expected) yet the described actions and times are different; there can be no good justification for that: the actions, time and cost should be identical whether the application is for a one year or three year licence. The inclusion of officer time in relation to the knowledge test will consequently result in an incorrect Base Cost in relation to the fee to be charged for the grant of any new driver's licence.

ii. The Council charges £55 for the vehicle test, which is conducted at its own testing facility, yet there is absolutely no justification for this charge in the figures supplied. This fee must be justified and explained in exactly the same way as the Council has now approached matters in relation to the other taxi licensing fees.

iii. In relation to Hackney Carriage Vehicle Licence Grant (1 year) there is an entry for Post Licence Annual Inspection x 2' which suggests that over 2 hours of officer time are spent on this function. In practice the inspection is carried out by a Licensing Enforcement Officer on vehicles that are over 6 years of age only and is a purely visual inspection, lasting no more than 10 minutes. There is almost no roadside enforcement of any sort to support this time figure. This 'Annual inspection x 2' figure re-appears in the calculations for a hackney carriage vehicle licence renewal and for the grant and renewal figures calculated in respect of private hire vehicle licences for both grant and renewal.

iv. In respect of the grant of a one year private hire operator licence, there are entries for 'Site visit' by a Licensing Enforcement Officer at just under an hour of time and a further 'Inspection x 1' by Licensing Enforcement Officer and Licensing Assistant at just over one and a half hours. These appear to be duplicitous entries with slightly different description and recorded times.

v. In relation to the five year grant of an operator licence, the 'Inspections' category states that almost 7 hours will be spent on such visits. Again, this seems excessive and my client does not accept that this period of time is spent on operator inspections in connection with operator licence application and during the term of the licence.

vi. My client opposes and challenges the £10 fee on each vehicle operated by an operator, which at £2 per year per vehicle (for a five year grant) seems a wholly pointless and irrelevant charge, but there appears to be no explanation or justification for levying such a charge

vii. The time spent in relation to DBS checks is excessive and would be reduced even further if the Council were to use the online DBS service.

viii. In relation to 'Additional costs' and 'Central costs' which run throughout the various fee calculations, I appreciate that some of the information on how these are calculated is given in the Appendices; however there is not enough information there to examine the figures in any detail. Some costs should not be included in a particular category and should be wholly or partially apportioned only to a particular licence type. By way of example, if officers were to attend a vehicle examination course, the cost should be charged only between hackney carriage and private hire vehicle accounts and no part of it should be charged to driver or operator licensing.

ix. Without a breakdown of officers' salaries it is impossible for us or Members to be sure that the charges have been correctly calculated. Such information would allow the specified times to be checked and to know whether the base costs have been calculated using on-costs (ie the cost including central costs), even though they have been separately charged. Please supply the salary breakdown by each of the officer grades LM, PLO, LO, LEO and LA and advise of the FTE (full time equivalent) of each officer grade.

x. In Appendix H there are various 'Supplies and Services' costs. These costs need to be appropriately and correctly apportioned between each of the licence types, which can only be done if details of each item of charge is specified. By way of example, it is stated that £5,750 relates to 'Equipment' and we appreciate this is likely to include the cost of plates, signs and decals which should only be charged to vehicle licensing fees and not also to driver and operator fees.

Finally, may I take this opportunity to thank you for advising the date of consideration of objections by the Licensing Committee and I would like to accept your kind invitation to attend that meeting in order to address the Committee in person on behalf of my client.

Yours sincerely,

David B Wilson

Licensing Consultant, Mediator and Trainer

APPENDIX 3

Driver Licence Grant - 3 year **TIME (10THS)**

Action	LM	PLO	LO	LEO	LA
Pre- Application advice and Guidance				0.1	0.05
Receipting Application and Initial Checking					0.1
Photocopying and Printing					0.09
Fee reconciliation/processing/banking		0.05	0.11	0.1	0.1
DBs Completion, Checking and Signing				0.3	0.3
Processing onto Uniform					0.11
Booking knowledge test					0.1
Conduct knowledge test and grade paperwork				1.5	0.03
Check DBS and DVLA and Medical				0.2	
Production of licence, badges etc					0.11
Application checking and signing		0.05			0.09
Issue Licence and Badge					0.12
General Advice and Information				0.066	0.01
File and File maintenance			0.01	0.01	
Total officer time	0.00	0.10	0.12	2.28	1.21

Base Cost **£111.42**

Additional Operational Costs Levied to 16009 divided by total number of licences (622)

Additional Costs **£100.95**

Central Costs **£194.76**

Total Operational Costs **£295.71**

Fee Calculation: **Base Cost + Additional Costs = £407.13**

Licence Fee £405.00

**NB PH Driver licence will attract an additional £25.00 levy to address deficit
Drivers wishing to purchase a Dual Licence £ 430.00 (ie cost of PHD Licence)**

Private Hire Driver Renewal fee £430.00