

General Licensing Committee Agenda



**9.30 am Tuesday, 12 January 2021
Via Microsoft Teams**

In accordance with Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held on a virtual basis. Members of the Public can view a live stream of the meeting at:

<https://www.darlington.gov.uk/livemeetings>

Members of the public wanting to raise issues/make representations at the meeting can do so by emailing Allison.hill@darlington.gov.uk 24 hours before the meeting begins.

1. Introductions/Attendance at Meeting
2. Declarations of Interest
3. To approve the Minutes of the meeting of this Committee held on :
 - (a) 28 July 2020; and (Pages 1 - 4)
 - (b) Special Meeting 10 November 2020 (Pages 5 - 6)
4. To approve the Minutes of the meetings of the General Licensing Sub Committees held on :
 - (a) 28 July 2020; (Pages 7 - 8)
 - (b) 8 September 2020; (Pages 9 - 10)
 - (c) 20 October 2020; and (Pages 11 - 12)
 - (d) 1 December 2020 (Pages 13 - 14)
5. Review of Taxi Licensing Fees 2021/22 – Report of the Director of Economic Growth (Pages 15 - 22)

6. SUPPLEMENTARY ITEM(S) (if any) which in the opinion of the Chair of this Committee are of an urgent nature and can be discussed at this meeting
7. Questions



Luke Swinhoe
Assistant Director Law and Governance

Monday, 4 January 2021

Town Hall
Darlington.

Membership

Councillors Clarke, Crumbie, Donoghue, Dulston, Haszeldine, C L B Hughes, B Jones, Lee, Newall, K Nicholson, A J Scott and Snedker

If you need this information in a different language or format or you have any other queries on this agenda please contact Allison Hill, Democratic Officer, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays Email: allison.hill@darlington.gov.uk or telephone 01325 405997

GENERAL LICENSING COMMITTEE

Tuesday, 28 July 2020

PRESENT – Councillors B Jones (Chair), K Nicholson, Lee, Clarke, Crumbie, Donoghue, Dulston, Haszeldine, C L B Hughes, Newall, A J Scott and Snedker

OFFICERS IN ATTENDANCE – Allison Hill (Democratic Officer), Graham Hall (Head of Community Safety), Brian Murray (Assistant Licensing Manager), Colin Dobson (Licensing Manager), Bethany Symonds (Lawyer) and Mark Walton (Licensing Enforcement Officer)

LG1 APPOINTMENT OF CHAIR FOR THE MUNICIPAL YEAR 2020/21

RESOLVED – That Councillor B Jones be appointed Chair of this General Licensing Committee for the Municipal Year 2020/21.

LG2 APPOINTMENT OF VICE-CHAIR FOR THE MUNICIPAL YEAR 2020/21

RESOLVED - That Councillor Lee be appointed Vice-Chair of this General Licensing Committee for the Municipal Year 2020/21.

LG3 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

LG4 TIME OF MEETINGS

RESOLVED – That for the remainder of this Municipal Year the timings of meetings of this Scrutiny Committee be held at 9.30 a.m

LG5 MINUTES OF THE MEETING OF THE GENERAL LICENSING COMMITTEE

Submitted – the Minutes (previously circulated) of the meeting of the General Licensing Committee held on 14 January 2020.

RESOLVED – That the Minutes of the meeting of the General Licensing committee held on 14 January 2020 be approved as a correct record.

LG6 MINUTES OF THE GENERAL LICENSING SUB COMMITTEE

Submitted – The Minutes (previously circulated) of the meeting of the General Licensing Sub-Committee held on 17 March 2020.

RESOLVED – That the Minutes of the meeting of the General Licensing Sub-Committee held on 17 March 2020 be approved as a correct record.

LG7 REVIEW OF POLICIES AND CONDITIONS RELATING TO HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES AND THEIR DRIVERS AND OPERATORS

The Director of Economic Growth submitted a report (previously circulated) to invite Members of this General Licensing Committee to approve the draft of the Council's revised policy document in respect of Hackney Carriages and Private Hire vehicles, their drivers and Operators, due to take effect from 1 January 2021; and to seek Members approval for public consultation on the Council's Taxi Licensing Policy last approved on 1 January 2016.

The proposed changes to the current Taxi Licensing Policy and the draft of the Policy were appended to the submitted report.

The submitted report advised that the revised Policy reflected changes to licensing and other legislation and included the latest government and profession body guidelines; and to introduce and reinforce measures to ensure the protection of the general public, in particular children and vulnerable adults and to provide an enforcement framework that takes account of legislative changes and amendments whilst providing encouragement and support to the taxi trade in the Borough.

It was reported that at the time of writing the report Darlington Council had 175 licensed Hackney Carriage vehicles and 103 licensed private hire vehicles, of those 13 were wheelchair accessible; also 164 hackney carriage drivers, 167 private hire drivers and 109 combined hackney carriage and private hire licensed drivers and 3 private hire operators.

Members were advised that following approval of the draft policy a consultation exercise will be undertaken with Licence holders and other stakeholders including Council Members; Durham Constabulary; Immigration Enforcement; Durham Fire Authority; Darlington Association on Disability (DAD); Highways; Environmental Health; Trading Standards; Planning; Public Health; Darlington Safeguarding Partnership; Home to School Transport Section; other local transport providers; and the North East Strategic Licensing Group (NESLG) of which all Tees Valley Local Authorities were members of.

The submitted report also outlined the proposed changes to the Policy in relation to subscription to the Disclosure and Barring Service (DBS) update service; the NR3 register; Disability Awareness Training; Insurance 'write offs'; the colour specified for hackney carriage vehicles; age restrictions and emissions; on-line application and payments; reduction of the processing time for applications; CCTV; tinted windows; previous convictions; advertising on vehicles; and spare wheels.

General discussion ensued on the draft Policy and the proposed changes and the Licensing Manager answered Members questions thereon. Members welcomed the proposals and made particular reference to paragraph 57 of the draft policy to include applicant's to communicate in 'clear' English; questioned the availability of charging points for electric vehicles; proposed that all Class N vehicles undergo diagnostic checks and that there be a time limit on replacing a wheel that has undergone repair by sealant; suggested that they would like to see CCTV in all vehicle cabins in the future; and expressed their concerns at the replacement of the historic 'Notifiable Occupation' scheme by 'Common Law Police Disclosures'.

The Licensing Manager confirmed with Members that there will be some minor

amended to be made to the draft Policy as a result of the statutory Taxi and Driver Hire Standards.

RESOLVED – That the General Licensing Committee approve the draft of the Taxi Licensing Policy for public consultation, taking into account the Statutory Taxi and Driver Hire Standards, to be applied to all Licences from 1 January 2021.

LG8 MINOR UPDATE OF FEES RELATING TO PAVEMENT CAFE LICENCES

The Director of Economic Growth submitted a report (previously circulated) to invite Members to determine a new reduced fee for the licensing and operation of Pavement Cafes in the borough of Darlington in line with new legislation.

It was reported that the Government had proposed new legislation, Business and Planning Bill which received Royal Assent on 22 July and if passed, was likely to be enacted before the end of July, which will be temporary until 30 September 2021 and developed to encourage the consumption of food and drink outdoors where the process of making an application for a licence had been slimlined. This would allow for businesses to obtain a licence to place temporary furniture, such as tables and chairs outside of cafes, bars and restaurants quickly, for a fee not exceeding £100.

Members discussed the current Pavement Café fees; the current Pavement Café Policy; and gave consideration to the pavement café licence between the range of no fee up to £100 for issue until 30 September 2021 with the aim of enhancing the use of public space and aid the local economy by adding the facilities offered to people who visit, live and work in the borough of Darlington.

RESOLVED – That this General Licensing Committee agree to follow the Government legislation, namely the Business and Planning Act and set 'no fee' for pavement café licences for issue until 30 September 2021.

LG9 QUESTIONS

Councillor C Hughes raised a question in relation to public safety and the Council's position regarding the wearing of face coverings for both the public and the drivers within taxis and if this could be made mandatory.

Members discussed the matter with the Licensing Manager who advised that as the practice of wearing face coverings was guidance from Public Health it would be difficult to enforce, however he did confirm that Licensing Officers would not seek to prosecute a taxi driver who refused a passenger who would not wear a face covering.

Members also discussed potential issues with facial recognition of drivers wearing face coverings.

RESOLVED – That Members of this General Licensing Committee recommend that face coverings are worn by both passengers in and drivers of taxis in the borough.

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GENERAL LICENSING COMMITTEE

Tuesday, 10 November 2020

PRESENT – Councillors B Jones (Chair), Clarke, Crumbie, Donoghue, Dulston, Haszeldine, C L B Hughes, Lee, Newall, K Nicholson, A J Scott and Snedker

OFFICERS IN ATTENDANCE – Bethany Symonds (Lawyer), Allison Hill (Democratic Officer), Graham Hall (Head of Community Safety), Brian Murray (Assistant Licensing Manager) and Colin Dobson (Licensing Manager)

LG10 DECLARATIONS OF INTEREST

There were no declarations of interest reported at the meeting.

LG11 REVIEW OF POLICIES AND CONDITIONS RELATING TO HACKNEY CARRIAGES, PRIVATE HIRE VEHICLES AND THEIR DRIVERS AND OPERATORS

The Director of Economic Growth submitted a report (previously circulated) for Members to give consideration to and approval of the final draft of the Council's revised policy document in respect of Hackney Carriages and Private Hire vehicles, their drivers and Operators, which is due to take effect from 01 January 2021.

The submitted report included the proposed changes following the consultation exercise which was held between 21 August and 2 October 2020; and a draft of the policy which reflected legislative changes relating to licensing and included the latest government and professional body guidelines, along with new statutory standards introduced by the Department of Environment, Food and Rural Affairs (DEFRA) to protect children and vulnerable adults.

It was reported that at the time of writing the report, Darlington Council had 161 licensed Hackney Carriage vehicles and 90 licensed private hire vehicles and of these 12 were wheelchair accessible; in addition there were also 166 hackney carriage drivers, 163 private hire drivers and 106 combined hackney carriage and private hire licensed drivers.

The submitted report also outlined key changes from the Department of Transport in relation to DBS checks; the National Register and previous convictions and outlined the proposed local changes. The proposed local changes were in relation to the colour of vehicles; the introduction of an age policy for emissions; window tints to reduce light transmission; specific locations on vehicles for advertising; removal of the requirement to carry a spare wheel; insurance write offs to allow Category N; on-line payments only; reducing application process time; and disability awareness. It was also noted that although inward CCTV was not mandated by the Department of Transport this was being encouraged and supported locally and will be considered for further review.

Discussion ensued on the draft policy and proposed changes and Members referred in particular to the specific shade of red permitted for vehicles which Members felt was too restrictive and it was agreed that the Licensing Manager would amend the

draft policy to include a less restrictive colour shading.

With regard to the licensing incentive of a 25 per cent reduction in licensing fees offered for fuel efficient vehicles, a Member questioned what was being done to encourage more of these vehicles within the trade. The Licensing Manager confirmed that he would like to see more emission free vehicles, however advised that there was still a reluctance from the taxi trade, mainly due to the increased cost of purchasing these vehicles and the lack of high speed charging points, especially for longer journeys. The Chair confirmed that this was an area to keep under review and for the Licensing Team to continue to campaign for driver to reduce emissions.

A further question was raised by a Member regarding the wearing of face coverings in taxis by both the driver and the passengers and why this had not formed part of the consultation with the trade. The Licensing Manager advised Members that there was ongoing national work regarding face coverings and the majority of authorities agreed that at the time current legislation and guidance was sufficient however did agree that a condition could be included in the Code of Conduct for drivers to adhere to public health guidance.

RESOLVED – That, taking into consideration the amendments proposed by this Committee, Members approve the draft of the Taxi Licensing Policy prior to approval by Full Council and to be applied to all Licences from 1 January 2021

GENERAL LICENSING SUB COMMITTEE

Tuesday, 28 July 2020

PRESENT – Councillors Dulston, B Jones, A J Scott and Snedker

APOLOGIES – Councillor K Nicholson

ALSO IN ATTENDANCE – Pc Iain Robertson (Durham Constabulary)

OFFICERS IN ATTENDANCE – Graham Hall (Head of Community Safety), Colin Dobson (Licensing Manager), Allison Hill (Democratic Officer), Brian Murray (Assistant Licensing Manager) and Bethany Symonds (Lawyer)

LGS1 ELECTION OF CHAIR

RESOLVED - That Councillor B Jones be elected Chair for the purpose of this meeting.

LGS2 DECLARATIONS OF INTEREST

There were no declarations of interest reported at this meeting.

LGS3 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – That, pursuant to Sections 100A (4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt information as defined in exclusion paragraphs 1 and 7 of Part 1 of Schedule 12A to the Act.

LGS4 PRIVATE HIRE DRIVER LICENCE APPLICATIONS FOR GRANT AND REVIEWS OF A PRIVATE HIRE DRIVER LICENCE (EXCLUSION PARAGRAPHS 1 AND 7)

The Director of Economic Growth submitted a report (previously circulated) to give consideration to an application for the grant of a Private Hire Driver Licence in light of previous convictions and current motoring conviction; an application for the grant of a Private Hire Driver Licence in light of previous convictions; and a review of a Private Hire Driver in light of a complaint about inappropriate language/behaviour.

Ref 02/20 – To consider an application for a grant of a Private Hire Driver Licence in light of previous convictions and a motoring offence.

The driver did not attend the meeting and advised the Licensing Manager in advance that he was ill. Members considered the action that they wished to take.

RESOLVED – That the driver be invited to attend the next ordinary meeting of the General Licensing Sub Committee for consideration of his application.

Ref 03/20 – To consider an application for the grant of a Private Hire Driver Licence in light of previous convictions.

The driver attended the meeting and responded to Members questions in relation to the above, and to why they felt that they were a fit and proper person to hold a

In reaching their decision, Members took into consideration the Council's Licensing Policy, which sets out the Council's stance on the Relevance of Convictions, Cautions, Reprimands, Fixed Penalties, Warnings and Complaints in assessing whether an applicant is a fit and proper person; the Council's Private Hire and Hackney Carriage Licensing Policy and Procedures; and Section 51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976.

After careful consideration Members decided to grant the licence as 12 years had passed since the last incident and Members were satisfied that the driver had changed since then and had become a more responsible person and that they were a 'fit and proper' person to hold a licence, however given the criminal record Members felt it appropriate to issue the grant with a warning letter in respect of future conduct.

RESOLVED – That the licence be granted with a warning letter in respect of future conduct and warned that if any further convictions, cautions, warnings or reprimands are received they would be referred immediately to the General Licensing Sub-Committee.

Ref 04/20 – To consider a review of a Hackney Carriage Driver Licence in light of a serious complaint received.

The driver attended the meeting and responded to Members questions in relation to the above, and to why they felt that they were a fit and proper person to hold a Hackney Carriage Driver Licence.

In reaching their decision, Members took into consideration the Council's Licensing Policy, which sets out the Council's stance on the Relevance of Convictions, Cautions, Reprimands, Fixed Penalties, Warnings and Complaints in assessing whether an applicant is a fit and proper person; the Council's Private Hire and Hackney Carriage Licensing Policy and Procedures; and Section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976.

After careful consideration Members decided to revoke the Hackney Carriage Driver Licence as the driver had admitted to repeatedly direct racially abusive comments towards the complainant however did not appear to recognise why this was unacceptable or show any remorse; the drivers apparent lack of understanding about racism and Members could not be satisfied that the incident would not be repeated; and Members were concerned about his attitude and how it might impact upon the treatment offered to passengers from ethnic minorities. Members were not satisfied that the driver was a 'fit and proper' person to hold such a licence.

RESOLVED – That the Licence be revoked under Section 61(1)(b) of the Local Government (Miscellaneous Provisions) Act 1976.

GENERAL LICENSING SUB COMMITTEE

Tuesday, 8 September 2020

PRESENT – Councillors Donoghue, C L B Hughes, B Jones, Lee and Snedker

OFFICERS IN ATTENDANCE – Graham Hall (Head of Community Safety), Colin Dobson (Licensing Manager), Allison Hill (Democratic Officer), Brian Murray (Assistant Licensing Manager), Sgt C Dickenson (Durham Constabulary), Bethany Symonds (Lawyer) and Mark Walton (Licensing Enforcement Officer)

LGS5 ELECTION OF CHAIR FOR THE PURPOSE OF THE MEETING ONLY

RESOLVED - That Councillor B Jones be elected Chair for the purpose of this meeting

LGS6 DECLARATIONS OF INTEREST

There were no declarations of interest reported at this meeting.

LGS7 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – That, pursuant to Sections 100A (4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt information as defined in exclusion paragraphs 1 and 7 of Part 1 of Schedule 12A to the Act.

LGS8 PRIVATE HIRE DRIVER LICENCE APPLICATION FOR GRANT (EXCLUSION PARAGRAPHS 1 AND 7)

Ref. 02/20 - The Director of Economic Growth submitted a report (previously circulated) to give further consideration to an application for the grant of a private hire driver licence in light of previous convictions and a current motoring conviction.

The driver attended the meeting and responded to Members questions in relation to the above, and to why they felt that they were a fit and proper person to hold a

In reaching their decision, Members took into consideration the Council's Licensing Policy, which sets out the Council's stance on the Relevance of Convictions, Cautions and Endorseable Fixed Penalties in assessing whether an applicant is a fit and proper person; the Council's Private Hire and Hackney Carriage Licensing Policy and Procedures; and Section 51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976.

After careful consideration Members decided to grant the licence as most of the criminal record was historic and Members felt that the applicant had matured however, there were serious concerns that they had not disclosed their full criminal record from the outset and had no recollection of being cautioned in 2011 so Members agreed to issue the licence with a warning.

RESOLVED - That the licence be granted with a warning letter in respect of future conduct and warned that if any further convictions, cautions, warnings or reprimands are received they would be referred immediately to the General Licensing Sub-Committee.

GENERAL LICENSING SUB COMMITTEE

Tuesday, 20 October 2020

PRESENT – Councillors Donoghue, C L B Hughes, B Jones, Lee and Snedker

ALSO IN ATTENDANCE – Councillors Sgt C Dickenson (Durham Constabulary)

OFFICERS IN ATTENDANCE – Bethany Symonds (Lawyer), Graham Hall (Head of Community Safety), Colin Dobson (Licensing Manager), Allison Hill (Democratic Officer) and Brian Murray (Assistant Licensing Manager)

LGS9 ELECTION OF CHAIR FOR THE PURPOSE OF THE MEETING

RESOLVED - That Councillor B Jones be elected Chair for the purpose of this meeting.

LGS10 DECLARATIONS OF INTEREST

There were no declarations of interest reported at this meeting.

LGS11 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – That, pursuant to Sections 100A (4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt information as defined in exclusion paragraphs 1 and 7 of Part 1 of Schedule 12A to the Act.

LGS12 REVIEW OF PRIVATE HIRE DRIVER LICENCE (EXCLUSION PARAGRAPHS 1 AND 7)

Ref 05/20 - The Director of Economic Growth submitted a report (previously circulated) to give consideration to a review of a private hire driver licence in light of information received from Durham Constabulary.

The driver was unable to attend the meeting to respond to Members questions in relation to the above, and to why they felt that they were a fit and proper person to hold a private hire driver licence as he was currently being remanded in custody awaiting trial.

In reaching their decision, Members took into consideration the Council's Licensing Policy, which sets out the Council's stance on the Relevance of Convictions, Cautions and Endorseable Fixed Penalties in assessing whether an applicant is a fit and proper person; the Council's Private Hire and Hackney Carriage Licensing Policy and Procedures; Section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976; and Section 52 of the Road Safety Act 2006.

After careful consideration Members decided that although the driver had not been convicted for the offences for which they had been charged, the Members' were mindful of the serious nature of the allegations and determined that this was a

reasonable cause to revoke their licence. If the driver was to be acquitted of the offences in future they will be able to reapply for a licence and the application would be expedited.

RESOLVED – That the licence be revoked with immediate effect in the interests of public safety in accordance with the provisions of Section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.

GENERAL LICENSING SUB COMMITTEE

Tuesday, 1 December 2020

PRESENT – Councillors Donoghue, B Jones, Lee, A J Scott and Snedker

OFFICERS IN ATTENDANCE – Bethany Symonds (Lawyer), Colin Dobson (Licensing Manager), Allison Hill (Democratic Officer), Brian Murray (Assistant Licensing Manager) and Sgt C Dickenson (Durham Constabulary)

LGS13 ELECTION OF CHAIR

RESOLVED - That Councillor B Jones be elected Chair for the purpose of this meeting.

LGS14 DECLARATIONS OF INTEREST

There were no declarations of interest reported at this meeting.

LGS15 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED – That, pursuant to Sections 100A (4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the ensuing item on the grounds that it involves the likely disclosure of exempt information as defined in exclusion paragraphs 1 and 7 of Part 1 of Schedule 12A to the Act.

LGS16 PRIVATE HIRE DRIVER LICENCE APPLICATIONS FOR GRANT (EXCLUSION PARAGRAPHS 1 AND 7)

The Director of Economic Growth submitted a report (previously circulated) to give consideration to two applications for grant of a Private Hire Driver licence in light of previous convictions.

Ref 06/20 – To consider an application for a grant a Private Hire Driver Licence in light of previous convictions.

The driver attended the meeting and responded to Members questions in relation to the above, and to why they felt that they were a fit and proper person to hold a Private Hire Driver Licence.

In reaching their decision, Members took into consideration the Council's Licensing Policy, which sets out the Council's stance on the Relevance of Convictions, Cautions and Endorseable Fixed Penalties in assessing whether an applicant is a fit and proper person; the Council's Private Hire and Hackney Carriage Licensing Policy and Procedures; and Section 51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976.

After careful consideration Members decided to refuse the application in light of the extensive criminal record and the further information disclosed by the police representative at the meeting including recent incidents of concern; the applicant

withheld a significant amount of their criminal record on the application form; and Members agreed that they would not be comfortable for their partners and family members to be a passenger in their taxi.

RESOLVED – That the application for a Private Hire Driver Licence be refused.

Ref 07/20 – To consider an application for the grant of a Private Hire Driver Licence in light of previous convictions.

The driver attended the meeting and responded to Members questions in relation to the above, and to why they felt that they were a fit and proper person to hold a Private Hire Driver Licence.

In reaching their decision, Members took into consideration the Council's Licensing Policy, which sets out the Council's stance on the Relevance of Convictions, Cautions and Endorseable Fixed Penalties in assessing whether an applicant is a fit and proper person; the Council's Private Hire and Hackney Carriage Licensing Policy and Procedures; and Section 51(1)(a) of the Local Government (Miscellaneous Provisions) Act 1976.

After careful consideration Members decided to depart from the Council's Licensing Policy that there will be an expectation that applicants have been free from conviction for at least five years as the applicant had demonstrated to Members that he was fit and proper person and had shown remorse for his past actions and had attempted to change his life and shown a commitment to their family priorities, however, given regard to their criminal record Members felt it appropriate to issue the licence with a warning about future conduct.

RESOLVED – That the Licence be granted with a warning letter in respect of future conduct and the applicant be warned that if any further convictions, cautions, warnings or reprimands are received they would be referred immediately to the General Licensing Sub Committee.

REVIEW OF TAXI LICENSING FEES FOR 2021 – 2022

Purpose of the Report

The purpose of this report is to invite Members to determine the licence fees relating to hackney carriage and private hire drivers along with their vehicles and operators. Fees are reviewed annually, based on the cost recovery of administering and where appropriate enforcing the relevant legislation relating to such licences.

Background

Darlington Licensing Authority is responsible for processing and issuing licences for a wide range of activities and with a few exceptions will cover all licensing applications (the A to Z of licensing). In respect of taxi licensing, 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). Surpluses **must** be carried forward and deficits **may** be carried forward to future years within each ring-fenced licensing budget. Numerous legal cases over the years have confirmed that councils cannot profit from its fees and charges thus, ring fencing the income to the licensing service.

Local authorities are not obliged to charge the cost recovery level they have calculated and a lower fee can be charged, but the difference between this lower fee and the cost recovery level must be borne by the authority and cannot be re-charged to other businesses. Some fees, notably in relation to the Licensing Act 2003, are set nationally within legislation and the Council has no control.

While Full Council previously determined the levy of all fees and charges in respect of the provision of the licensing service, a report invited Full Council to delegate the setting of those fees that were within the remit of the General Licensing Committee to that Committee. This was considered by Full Council at their meeting on 28 January 2016. They duly approved the delegation and the Council's Constitution was amended accordingly. This enables in depth consideration to be given by members in a specialist committee, whenever the need arises.

Information and Analysis

This financial year has seen unprecedented changes to the licensing environment due to the on-going Covid-19 national emergency. This has involved developing new ways of working whilst maintaining the licensing function. Indeed, demand on licensing for advice has greatly increased as government regulations designed to ensure public safety frequently change. Those businesses requiring a licence in the hospitality industry have been hit particularly hard and it is likely that some will not continue to operate when the government furlough scheme ends in March 2021. Taxi provision is closely linked to the night-time economy and restrictions of movement has also hit this trade particularly hard.

Guidance from the Local Government Association (LGA) and from specialist licensing lawyers throughout this pandemic has been that the licensing function must be maintained. There are however many in the trade who have elected not to renew their licence at the moment and this has had the effect of significantly reducing the licensing budget. Whilst

there is government support for those businesses that have been affected, the option to suspend a licence when not being used has been offered where applicable by the Licensing Department to help ease the financial burden.

At the beginning of the first lockdown period in March 2020 a Licensing Enforcement Officer left the organisation, however it was not possible to recruit a replacement due to on-going restrictions. This placed additional pressures on licensing staff along with the problems of staff sickness and self-isolation due to Covid-19. A new officer has recently been recruited and will soon begin working with the team.

Although the introduction of a new on-line taxi licensing application system had been approved before the lockdown period, it was still in the process of being developed, so staff could not benefit from the advantages remote applications provide. Work has continued with this system and it is hoped that it will be operational in early 2021. This system, whilst being developed, has had to take into account the new taxi policy that was approved for implementation on 1st January 2021 along with statutory changes to standards required by the Department of Transport.

For a new driver licence application there will still be a requirement for a socially distanced face to face meeting but most of the application process will have been carried out from a remote location. It will enable licensing staff to conduct business in a mobile environment, which will result in improved response times, whilst increasing the security of documents and quality of service to the customer.

Taxi Licensing Fees

The LGA has produced guidance in a document called 'Open for Business', which states the following activities can be included when calculating the fee on a cost recovery basis:

Administration – this could cover basic office administration to process the licence application, such as resources, photocopying, postage or the cost of handling fees through the accounts department. This could also include the costs of specialist licensing software to maintain an effective database, and printing licences.

Initial visit/s – this could cover the average cost of officer time if a premises visit is required as part of the authorisation process. Councils will need to consider whether the officer time includes travel. It would also be normal to include 'on-costs' in this calculation. Councils will need to consider whether 'on-costs' include travel costs and management time.

Third party costs – some licensing processes will require third party input from experts, such as veterinary attendance during licensing inspections at animal related premises.

Liaison with interested parties – engaging with responsible authorities and other stakeholders will incur a cost in both time and resources.

Management costs – councils may want to consider charging an average management fee where it is a standard process for the application to be reviewed by a management board or licensing committee. However, some councils will include management charges within the 'on-costs' attached to officer time referenced below.

Local democracy costs – councils may want to recover any necessary expenditure in arranging committee meetings or hearings to consider applications.

On costs – including any recharges for payroll, accommodation, including heating and lighting, and supplies and services connected with the licensing functions.

Finance teams should be able to provide a standardised cost for this within each council.

Development, determination and production of licensing policies – the cost of consultation and publishing policies can be fully recovered.

Web material – the EU Services Directive requires that applications, and the associated guidance, can be made online and councils should effectively budget for this work.

Advice and guidance – this includes advice in person, production of leaflets or promotional tools, and online advice.

Setting and reviewing fees – this includes the cost of time associated with the review, as well as the cost of taking it to a committee for approval

There is a current combined deficit to the taxi and private hire licensing budget of £11,291 as a result of reduced income following Covid-19 restrictions and there will be a projected total loss of income due to Covid-19 at the end of the financial year of £22,002. Without the issue of Covid-19 there would be a projected surplus of £10,711. If there is a loss directly related to Covid-19, provision has been made for the licensing budget to be reimbursed, however this is only likely to cover any deficit. It should be noted that when making forecasts in previous years there has been a large degree of predictability that has not been afforded to us this year.

When the current fees were determined it was on the basis that the service would see a reduction in the income and thereby reduce the surplus. Any forecast is based upon the licences at that time and may not be accurate as they fluctuate over time. As the number of taxi licence applications has decreased so has the income this would generate. It is difficult to estimate how much this will be as many of those with a one year licence renewed just before the pandemic and it is clear that the taxi trade has been adversely affected. Without the night-time economy trade it has been very difficult for some to operate and there will be those who choose not to renew in 2021.

The vacant position for a replacement Licensing Enforcement Officer has relieved the pressure of the licensing budget going into deficit, where under a normal economic situation an increase in fees would be sought. The cost of the new software applications had already been accommodated from the previous budget and the impact of Covid-19 will not influence this project.

At this time it would be unreasonable for the taxi trade to be placed under additional financial pressure by seeking an increase in fees for 2021 – 2022 as any deficit can be recovered centrally.

As licensing budgets are built up from zero, with costs that reflect work-streams within the relatively short period of one year, there will inevitably be significant year on year variations in the allocated costs depending on where time has been spent. In the case of *Hemmings v Westminster*, the High Court stated that “*a local authority does not have to adjust the licence fee every year to reflect any previous deficit or surplus, so long as it all comes out in the wash eventually*”. In last year’s fees report, the aim was to reduce the surplus close to cost level recovery. Whilst this has been achieved, the circumstances have been highly unfortunate. It is still too early to establish how the taxi trade will recover, however by maintaining the current licensing regime it will hopefully enable them to respond to an increase in demand over the coming months to sustain their business.

Fees proposal

It is therefore proposed that all fees in respect of the below are retained at their current levels:

- a) Hackney Carriage Vehicles
- b) Private Hire Vehicles
- c) Driver Licence
- d) Operator's Licence

Recommendation

Members are invited to approve that the taxi licensing fees will continue at their current rate from 1st April 2021.

Reasons

The recommendation is put forward to ensure that the costs of delivering the taxi licensing service can continue to be met directly from the relevant licence fees at this time of economic uncertainty.

Ian Williams
Director of Economic Growth

Background Papers

The Local Government (Miscellaneous Provisions) Act 1976
The Local Government Association guidance document 'Open for Business'
Appendices

Appendix 1 – Current driver fees
Appendix 2 – Current operator's fees
Appendix 3 – Current vehicle fees

Appendix 1

	£
Drivers	
Hackney Carriage Driver Licence Grant (1 year)	161.00
Hackney Carriage Driver Licence Grant (3 years)	356.00
Hackney Carriage Driver Licence Renewal (1 year)	76.00
Hackney Carriage Driver Licence Renewal (3 years)	271.00
Private Hire / Dual Driver Licence Grant (1 year)	161.00
Private Hire / Dual Driver Licence Grant (3 years)	356.00
Private Hire / Dual Driver Licence Renewal (1 year)	76.00
Private Hire / Dual Driver Licence Renewal (3 years)	271.00

Appendix 2

Private Hire Operators

Operator Licence Grant (1 year)	530.00
Operator Licence Grant (5 years)	1160.00
Operator Licence Renewal (1 year)	350.00
Operator Licence Renewal (5 years)	980.00
Operator Levy (1 year) (Per PHV Operated)	10.00
Operator Levy (5 year) (Per PHV Operated)	50.00

Appendix 3

Vehicles

Hackney Carriage Vehicle Licence grant	385.00
Hackney Carriage Vehicle Licence Renewal	355.00
Hackney Carriage Vehicle Licence with Disabled Access Grant	289.00
Hackney Carriage Vehicle Licence with Disabled Access Renewal	266.00
Private Hire Vehicle Licence Grant	370.00
Private Hire Vehicle Licence Renewal	340.00
Private Hire Vehicle Licence with Disabled Access Grant	277.00
Private Hire Vehicle Licence with Disabled Access Renewal	255.00

