



## AYLESBURY VALE DISTRICT COUNCIL Democratic Services

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Date Not Specified

### LICENSING COMMITTEE

A meeting of the **Licensing Committee** will be held at **10.00 am** on **Monday 15 January 2018** in **The Olympic Room, Aylesbury Vale District Council, The Gateway, Gatehouse Road, Aylesbury, HP19 8FF**, when your attendance is requested.

Contact Officer for meeting arrangements: Chris Ward; cward@aylesburyvaledc.gov.uk;

**Membership:** Councillors: J Brandis (Chairman), M Hawkett (Vice-Chair, in the Chair), A Huxley, S Lambert, T Mills, L Monger, S Morgan, R Newcombe, G Powell, S Renshell, B Russel and Sir Beville Stanier Bt (ex-Officio)

### AGENDA

**1. APOLOGIES**

**2. TEMPORARY CHANGES TO MEMBERSHIP**

Any changes will be reported at the meeting.

**3. MINUTES** (Pages 3 - 6)

To approve as a correct record the Minutes of the meeting held on 11 September 2017.

**4. DECLARATIONS OF INTEREST**

Members to declare any interests.

**5. TAXI AND PRIVATE HIRE LICENSING: FEES AND CHARGES** (Pages 7 - 16)

To consider the attached report.

Contact Officer: Peter Seal – (01296) 585083

**6. AMENDMENT TO TAXI AND PRIVATE HIRE POLICY** (Pages 17 - 18)

To consider the attached report.

Contact Officer: Peter Seal – (01296) 585083



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## Licensing Committee

11 SEPTEMBER 2017

**PRESENT:** Councillor J Brandis (Chairman); Councillors M Hawkett (Vice-Chairman), A Huxley, S Lambert, S Morgan, G Powell, S Renshell, B Russel and Sir Beville Stanier Bt (ex-Officio)

**APOLOGIES:** Councillors T Mills and L Monger

### 1. MINUTES

RESOLVED –

That the minutes of the meeting held on 15 and 17 May 2017 be approved as a correct record.

### 2. INTRODUCTION OF AN ENGLISH LANGUAGE AND KNOWLEDGE TEST FOR TAXI DRIVERS

The Committee received a report regarding the introduction of a functional English language test and knowledge test for new and existing hackney carriage and private hire drivers. In March 2017, the Licensing Committee had agreed this and Officers had since explored this possibility further. The English language and topographical test had also been a recommendation from a recent All-Party Parliamentary Group on Taxis.

The test would be carried out online and hosted by a trusted third party organisation at their premises. Once the examination was passed and completed, a certificate would be provided which would then need to be submitted by the applicant along with their Application for a License for to AVDC. This was in keeping with current taxi drivers providing their proof of driving standards training.

Discussions had been held with a proposed company to supply the electronic knowledge test, with the geography to cover Aylesbury Vale and include routes and points of interest, as well as basic Maths and English. Additionally, the test would encapsulate basic behavioural standards that License holders should be adhering to as part of their condition of license, such as circumstances of sounding vehicle horns. Officers were considering further functions of e-learning to provide information on topics such as safeguarding.

The number of questions in the test would be set by AVDC Officers and the questions would originate from a pool of questions from each category based on the authority's standards. No two drivers will receive the same set of questions and the test would be multiple choice with one correct answer and three incorrect answers. The pass rate and the time limit would also be set by Officers. The test would currently cost drivers £30 to take but this was still under negotiation with the supplier.

The Lead Officer, Peter Seal, welcomed Member participation in the development and testing of the language and knowledge examination. Members would also have the possibility of a demonstration prior to implementation. It was the intention to provide a progress report on the examination back to the License Committee in future.

Members sought more information and were advised:-

- i. The estimated lead time for examinations to be ready was two-three months.
- ii. Basic Maths was included for providing change and receipts to customers.

- iii. An understanding of verbal English was necessary when attending the supplier site to sit the examination. Officers would look further at the possibility of verbal English for those that may struggle with written discourse. It was noted though that the written questions would be in a similar tone of the Highway Code's driving theory test.
- iv. Photographic identification was required when attending the examination as well as supplying paperwork that would have been posted to the applicant ahead of the test.
- v. Hackney Carriage tests would be different as they would incorporate customer accessibility questions.
- vi. The examination would potentially have a limit of three attempts to pass. Failure to pass after three attempts would result in a formal refusal to which an applicant could appeal to the Magistrates' Court.
- vii. The test would only be valid within Aylesbury Vale due to de-regulation locally.
- viii. There was currently a limit of 50 Black Cabs serving the town of Aylesbury and 10 White Cabs in the rural district, and there were around 2,500 licensed drivers.
- ix. The number of drivers operating within Aylesbury Vale was expected to fall with the introduction of the test as there were licensed drivers operating with licenses obtained from neighbouring authorities. It was preferred that license holders operate within the areas they obtained their license.

Members welcomed the opportunity to be updated on the progress of the test and for it to come back to Committee in future.

RESOLVED –

That the a functional English language test and knowledge test for all new and existing hackney carriage and private hire drivers be introduced, and that the Principal Licensing Officer be authorised to agree and confirm the content of the test and bring back to Licensing Committee.

### **3. COUNCIL'S LIMITATION POLICY IN RESPECT TO AYLESBURY TOWN**

The Committee had received a report ahead of the meeting carrying out an unmet demand survey in Spring 2018 regarding the AVDC's hackney carriage quantity control policy for Aylesbury Town centre. At present, there was a limit of 50 hackney carriages in Aylesbury town and there were 10 white, purpose built taxis. Section 16 of the Transport Act 1985 permitted AVDC to limit the number of these taxis if they were satisfied there was no significant unmet demand.

The Department for Transport Taxi and Private Hire Licensing: Best Practice Guidance (March 2010) encouraged authorities to review their control policies every three years. The last detailed review was carried out in 2014 and concluded there was no unmet demand so a review would be needed in 2017 if the guidance was followed. However, a change in hackney vehicle specifications had been revised by the Committee in March 2017 and this had only recently been implemented which meant that the trade would be looking to replace older vehicles and freshen the Aylesbury Town hackney carriage fleet. It was therefore recommended that the report due in 2017 be deferred to allow the trade to replace vehicles so that the survey was accurate.

The Committee then heard about an experimental traffic order carried out by Buckinghamshire County Council through the conversion of taxi ranks to paid-for parking spaces. This had reduced taxi ranks by one third in Aylesbury Town Centre, consequently affecting license holders. Currently there was no certainty over re-establishment of taxi ranks.

Members sought more information on this and were advised:-

- i. The full impact on the experimental traffic order was not yet known amongst license holders.
- ii. The survey could be deferred beyond Spring 2018 as the advice from DfT is guidance only. A 'Health Check' could be undertaken to keep in touch with drivers' demand which was quicker and cost effective.
- iii. Taxi ranks could be located on private premises and not necessarily the public highways.

In light of the information regarding the reduction of taxi ranks and following the discussion on implications for the Town Centre, it was:-

RESOLVED –

That Members agreed to defer the decision on carrying out the unmet demand survey for Aylesbury Town Centre until Spring 2018 to allow the change to vehicle specifications to take effect and also in order to allow taxi rank provision to be settled.

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## **TAXI AND PRIVATE HIRE LICENSING: FEES AND CHARGES**

Tracey Aldworth

### **Purpose**

- 1.1 For Licensing Committee to agree the taxi and private hire licensing fees and charges and authorise the Group Manager- Regulatory Services to carry out the formal consultation.

### **2 Recommendations/for decision**

- 2.1 That the taxi and private hire licensing fees set out in Appendix 1 of this report be approved with effect from the 1 April 2018; and
- 2.2 The Group Manager – Regulatory Services be authorised to carry out the statutory consultation.

### **3 Supporting information**

- 3.1 Attached as Appendix 1 to this report is another report complete with appendices relating to the setting of fees and charges for taxi and private hire licences. The report is comprehensive and self-explanatory and went before the Environment and Living Scrutiny Committee on the 19 December 2017. As this report has been drafted prior to Scrutiny Committee, officers will update Members of Licensing Committee of any significant comments or changes and answer any questions arising from the report itself.
- 3.2 On the basis that the proposed fees have been agreed by the Environment and Living Scrutiny Committee, Members of Licensing Committee are asked to approve them with effect from the 1 April 2018.
- 3.3 Although less onerous in respect to driver licence fees, the statutory implementation process for operator and vehicle fees, as set out in Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 are prescribed and set out in paragraph 3.4. In the interests of fairness and transparency it is intended to apply the same process to driver licence fees, even though it is not entirely necessary.
- 3.4 The implementation process is as follows:
  1. A notice must be published in a local newspaper stating the proposed fees.
  2. This must specify a date, not less than 28 days from the date on which the notice is first published. That date has 2 functions:
    - a) It is the date by which any objections must be lodged; and
    - b) It is the date on which the revised fees will come into effect if (i) no objections are received; or (ii) any objections received have been withdrawn.
  3. If objections are received and are not withdrawn the Council must consider the objections. In the light of these objections the Council then sets a second date which cannot be more than 2 months after the first date specified when the new fees come into force.
- 3.5 It is therefore recommended that Members authorise the Group Manager – Regulatory Services to carry out the statutory consultation as set out in paragraph 3.4. If objections are received and not withdrawn Licensing Committee in May will consider them and agree the final fees with or without

modification. If an alteration is required after consideration, the fees can be increased as well as decreased.

**4 Options considered**

4.1 None

**5 Reasons for Recommendation**

5.1 To ensure that the Council's fees and charges in respect to taxis and private hire are fair and reasonable and in accordance with the law.

**6 Resource implications**

6.1 Any costs arising from this review are included within the proposed fees.

Contact Officer

Background Documents

Peter Seal x 5083

Open for business: LGA guidance on locally set licence fees

**TAXI AND PRIVATE HIRE LICENSING; FEES AND CHARGES**

**1 Purpose**

- 1.1 To review the taxi and private hire fees and charges and agree fee levels upon which the Council can subsequently formally consult on.

**2 Recommendations/for decision**

- |     |   |
|-----|---|
| 2.1 | That the Environment & Living Scrutiny Committee agree the fees and charges set out in Appendix 2 to this report; and |
| 2.2 | Licensing Committee be charged with the statutory consultation and implementation of the fees and charges.            |

**3 Supporting information**

- 3.1 The Council's taxi and private hire licence fees and charges have not been formerly reviewed for a number of years. However existing fee levels as a whole appear not to be wholly disproportionate. Existing taxi fees and charges are attached as Appendix 1.
- 3.2 Over the last two years taxi licensing has been subject to a number of changes relating to the introduction of new technology, some key decisions by the Council's Licensing Committee and significant changes in the law. Whilst the overall budget for hackney carriages and private hire, through diligent management, remains neutral it is prudent that the Council carry out a thorough review of fees and charges and agree them in accordance with the law.
- 3.3 The relevant legal provisions are set out in the Local Government (Miscellaneous Provisions) Act 1976 ('the Act') and specifically Section 53 in respect to drivers and Section 70 in relation to vehicles and operators. Both the procedure and authorisation process in respect to Sections 53 and 70 are different. The setting of fees for drivers (Section 53), for example is delegated to Licensing Committee and there is no requirement to advertise any proposed fees. Fees for vehicles and operators (Section 70) is a Cabinet decision and there are more extensive implementation arrangements.
- 3.4 In the interests of fairness and transparency it is intended to apply the same arrangements for driver licence fees as is required for vehicles and operators. This report seeks the agreement of the Environment and Living Scrutiny Committee of the specific fee levels for taxi licensing and the general methodology behind their calculation. A subsequent report, with the agreed fee levels will be brought before Licensing Committee with a recommendation to publish a notice of the proposed new fees and charges. If objections are received and not withdrawn a further meeting of Licensing Committee will consider them and agree the final fees with or without modification. In respect to vehicle and operator fees Licensing Committee will recommend their approval by the appropriate Cabinet Member.
- 3.5 Sections 53 and 70 of the Act allow the Council to charge fees for the grant of licenses in respect of hackney carriage and private hire drivers, vehicles and operators. The legislation specifies the elements that can be included in the calculation of the licence fees.
- 3.6 The costs of issue and administration of licences can be recovered in driver's licence fees. In respect of vehicle and operator licences, the reasonable cost of inspecting vehicles, the reasonable cost of providing hackney carriage

stands and any reasonable administrative costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles can be included in the fees.

- 3.7 In respect to drivers only, the costs of enforcement cannot be included in the calculation. The Council cannot make a profit from licence fees and any surplus or deficit must be carried forward and form part of any subsequent review of fees.
- 3.8 The general methodology behind this review of fees has been determined by the Act and the document 'Open for business: Local Government Association (LGA) guidance on locally set licence fees'. This guidance has been used as a starting point only because it does not take into account the specific statutory restrictions applicable to taxi and private hire fees and therefore not all the costs listed as recoverable in the guidance have been included in the fees.
- 3.9 The LGA guidance acknowledges that the EU Services Directive, applicable to most forms of licensing does not apply in the case of taxi and private hire licensing but the principles, however remain helpful. The core principles are that fees should be non-discriminatory; justified; proportionate; clear; objective; made public in advance; transparent; and accessible.
- 3.10 The LGA guidance draws attention to two important judicial decisions in respect to fees. The first is *Cummings V Cardiff* which rules that the charges within a licensing regime for different categories of licence should not subsidise each other.
- 3.11 The second is *Hemmings V Westminster*. Strictly speaking this does not apply to taxi and private hire licensing as this case proceeded under the auspices of the EU Services Directive. The principle ruling was that application fees relate solely to the costs of authorisation i.e. reviewing the application and granting or refusing it. Successful applicants should subsequently be charged an additional fee relating to the costs of on-going administration and enforcement. Whilst this is not necessarily applicable to taxi and private hire licensing it would be prudent to bear in mind the principle and might, for example inform the Council's refund policy in respect to unsuccessful applications.
- 3.12 The LGA guidance acknowledges that Councils are free to design the licensing service that best serves the needs of their community and recover the costs accordingly. It provides a number of elements that Council's may wish to consider (but for consideration only). These include administration, visits, third party costs, liaison with interested parties, management costs, local democracy costs, on costs, development, determination and production of licensing policies, web material, advice and guidance, setting and reviewing fees, monitoring and inspection visits and maintaining statutory registers. The legislation does not require the Council to make a precise calculation so as to arrive at an income which exactly meets the cost of the administration of the various licences. Councils are required, however to take a reasonable and proportionate approach and should aim to set a fee level that is sufficient to cover the cost but not make a surplus. On that basis it is proposed that a full service review of fees is carried out every three years, thus affording the opportunity to reconcile any surplus or deficit accrued. In addition to this the fees will be reviewed annually in relation to any increase in RPI and where appropriate an increase applied to the fee to recover related increased costs to the Council. Increases in line with RPI will not require a formal approval process.

- 3.13 A review of the cost of delivering taxi licensing services has been carried out and new fees are proposed that reflect both the full staffing costs as well as the support service costs e.g. services such as democratic services, corporate governance, office accommodation etc. Where the fee pays for a service provided to the Council by a supplier, such as DVLA checks, or a physical item such as a plate or bracket for a vehicle, this has been factored into the fee. DBS fees are set by our supplier and vary to a small extent annually. The DBS fee is therefore detailed separately and will be increased annually to reflect supplier cost increases. This will not require a formal approval process. The cost of physical supplies also varies dependent on supplier costs and will be increased annually to reflect supplier cost increases, This will not require a formal approval process.
- 3.14 A full summary of the fees proposed is set out in Appendix 2. The most significant variation from current fees can be seen in the areas of hackney carriage and private hire driver licences where the cost of a new 3 year licence has risen from £156 to £193. This reflects the increased resource requirements imposed on local authorities by the Deregulation Act 2015 which enables applicants who reside in and outside of Aylesbury Vale to apply for a driver licence from the Council. All drivers licensed by the Council are subject to series of checks in order to determine that they are fit and proper and do not pose an unacceptable risk to the safety of the travelling public. Deregulation has resulted in an increase in the numbers of applications received and in the type and variance of checks that need to be carried out uniformly across the service which include checks with other local authorities, police forces and immigration services to ensure that a licence can be issued in good faith. In many cases a charge is made to the Council for the provision of this information, in addition to the additional staffing resource required to carry out these checks and monitor and manage the timely return of information against the application.
- 3.15 Whilst it is proposed that driver licence fees should increase, it is proposed that both hackney carriage vehicle and private hire vehicle licence fees should reduce, with new hackney carriage vehicle licence applications reducing from £372 to £300 and new private hire vehicle licence applications reducing from £342 to £307. In the main, this reduction reflects the benefits resulting from the introduction of new digital technology to manage bookings and the issue of licences which has reduced the amount of resource required to deliver these services.

#### **4 Options considered**

- 4.1 None

#### **5 Reasons for Recommendation**

- 5.1 The periodic review of taxi licence fees and charges is a legal requirement.

#### **6 Resource implications**

The cost of running the taxi and private hire licensing service, including the review of fees, is met by appropriate fees and charges.

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## Appendix 1: CURRENT HACKNEY CARRIAGE / PRIVATE HIRE LICENCE FEES

### **HACKNEY CARRIAGE VEHICLES –**

Annual Vehicle Licence Fee	£372
Replacement vehicle to expire on original licence date	£70
Insurance Replacement Vehicle	£200

### **PRIVATE HIRE VEHICLES –**

Annual Vehicle Licence Fee	£342
Replacement vehicle to expire on original licence date	£70
Insurance replacement vehicle	£200
Executive Plate	£54
Replacement Vehicle Licence Plate with Bracket	£30
Replacement Vehicle Licence Plate only	£22
Replacement Bracket only	£8
Replacement Vehicle Window Card	£20
Replacement Door Signs (each)	£16
Replacement Drivers Badge	£25
Replacement Neck Lanyard	£6
Reprint of Licence (driver, vehicle or operator) to be posted	£16
Reprint of Licence (driver, vehicle or operator) to be emailed	£12
Replacement Hackney Carriage Laminated Tariff Card and Wallet	£10
Vehicle re-tests: within 14 days of first test	£28
After 14 Days of first test	£41
Non attendance of a vehicle inspection without 24 hours notice of non attendance	£75

### **DRIVERS LICENCE –**

Hackney Carriage/Private Hire Driver's Licence Renewal (before previous licence expires)	£135
Hackney Carriage/Private Hire Driver's Licence for three years inc Knowledge Test	£156
The Knowledge Test (Retest)	£24
Criminal Record Bureau Check (Enhanced) - Online	£44

### **PRIVATE HIRE OPERATORS LICENCE –**

Private Hire Operators Licence per annum	£203
Private Hire Operators Licence 5 year licence	£743

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## Appendix 2: PROPOSED HACKNEY CARRIAGE / PRIVATE HIRE LICENCE FEES

### **HACKNEY CARRIAGE VEHICLES –**

Annual Vehicle Licence Fee	£	300
Replacement vehicle to expire on original licence date	£	102
Insurance Replacement Vehicle	£	180

### **PRIVATE HIRE VEHICLES –**

Annual Vehicle Licence Fee	£	307
Replacement vehicle to expire on original licence date	£	102
Insurance replacement vehicle	£	180
Executive Plate	£	-
Replacement Vehicle Licence Plate with Bracket	£	34
Replacement Vehicle Licence Plate only	£	22
Replacement Bracket only	£	11
Replacement Vehicle Window Card	£	22
Replacement Door Signs (each)	£	23
Replacement Drivers Badge	£	19
Replacement Neck Lanyard	£	4
Reprint of Licence (driver, vehicle or operator) to be posted/emailed	£	10
Replacement Hackney Carriage Laminated Tariff Card and Wallet	£	10
Vehicle re-tests: within 14 days of first test	£	26
After 14 Days of first test	£	52
Non-attendance of a vehicle inspection without 24 hours notice of non-attendance	£	75

### **DRIVERS LICENCE –**

Hackney Carriage/Private Hire Driver's Licence Renewal (before previous licence expires)	£	175
Hackney Carriage/Private Hire Driver's Licence for three years	£	193
The Knowledge Test (Retest)	N/A	
Criminal Record Bureau Check (Enhanced) - Online	£	44

### **PRIVATE HIRE OPERATORS LICENCE –**

Private Hire Operators Licence 5 year licence	£	677
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## AMENDMENT TO TAXI AND PRIVATE HIRE POLICY

Tracey Aldworth

### Purpose

- 1.1 For Members to agree a small amendment to the Council's policy on Taxis and Private Hire.

### 2 Recommendations/for decision

- 2.1 For Licensing Committee to introduce an additional requirement in respect to the licensing of private hire vehicles as set out in paragraph 3.6.

### 3 Supporting information

- 3.1 In respect to the private hire function there are 3 players – the private hire driver, the private hire vehicle and the private hire operator. Only a private hire driver can drive a private hire vehicle and private hire vehicles can only be engaged via private hire operators. Sometimes all 3 licences are held by the same person, particularly those operating executive type businesses. More often than not a private hire driver also has a private hire vehicle (colloquially known as owner/drivers) or an operator holds the private hire vehicle licence. In all these situations the licensing authority is easily able to reconcile who is driving what vehicle and for what company, a key requirement in the enforcement of private hire regulations.
- 3.2 More recently however it has become apparent that a number of individuals, normally not residing within the Vale and who neither hold an AVDC private hire driver or operator licence are nonetheless applying for AVDC private hire vehicle licences apparently with the intention of leasing them.
- 3.3 Whilst this is not unlawful Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 does require the private hire vehicle licence to specify not just the applicant but 'every other person who is a proprietor of the private hire vehicle ...or who is concerned, either solely or in partnership with any other person in the keeping, employing or letting on hire of the private hire vehicle.'
- 3.4 In practice this information is often not provided with applications of this nature and the licensing team find themselves unable to establish which licensed driver is using a vehicle and which operator it is working with. In addition, these vehicles are often leased to a number of different drivers over the course of a one year licence and these changes are not being brought to the attention of the licensing authority.
- 3.5 The safety of taxi travelling public is the Council's paramount concern and therefore it is recommended that the additional standard as set out in paragraph 3.6 is added to Appendix 3 of the Council's Policy on Taxis and Private Hire relating to Private Hire and Hackney Carriage Vehicle Standards.
- 3.6 **A private hire vehicle application will only be considered if the applicant also holds one of the following:**
  - **A Private Hire or Hackney Carriage driver licence issued by Aylesbury Vale District Council , or**
  - **A Private Hire Operator licence with Aylesbury Vale District Council.**

**The only exception being where the applicant is from an insurance company who are providing a temporary replacement vehicle to be used under an existing private hire vehicle licence whilst the original vehicle is being repaired. In these cases, the insurance vehicle will be issued with the same licence number as the vehicle it is replacing. At no point must both vehicles be licensed at the same time.**

3.7 The private hire trade have been informed of this proposed amendment in relation to private hire vehicle licence applications and their comments were sought. Only 2 responses were received both of which misunderstood the amendment are not material or relevant.

**4 Options considered**

4.1 None

**5 Reasons for Recommendation**

5.1 To assist with the efficient enforcement of the private hire trade.

**6 Resource implications**

6.1 None

Contact Officer	Peter Seal x 5083
Background Documents	None