



## AYLESBURY VALE DISTRICT COUNCIL Democratic Services

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### LICENSING COMMITTEE

A meeting of the **Licensing Committee** will be held at **10.00 am on Monday 21 May 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 Hawket (Vice-Chairman), A Huxley, S Lambert, T Mills, L Monger, S Morgan, 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 - 4)

To approve as a correct record the Minutes of the meeting held on 15 January 2018.

#### 4. DECLARATIONS OF INTEREST

Members to declare any interests.

#### 5. TAXI AND PRIVATE HIRE LICENSING: FEES AND CHARGES (Pages 5 - 34)

For Members to consider the attached report.

Contact Officer: Lindsey Vallis and Simon Gallacher: 01296 585152 / 585083

#### 6. REPORT ON THE COUNCIL'S LIMITATION POLICY IN RESPECT TO AYLESBURY TOWN (Pages 35 - 38)

For Members to consider the attached report.

Contact Officer: Simon Gallacher: 01296 585083

**7. STREET TRADING REVIEW** (Pages 39 - 42)

For Members to consider the attached report.

Contact Officer: Simon Gallacher: 01296 585083

# Public Document Pack Agenda Item 3

## Licensing Committee

15 JANUARY 2018

**PRESENT:** Councillors M Hawkett (Vice-Chair, in the Chair), A Huxley, T Mills, L Monger, R Newcombe (In place of J Brandis), G Powell, S Renshell and B Russel

**APOLOGIES:** Councillors S Lambert, S Morgan and Sir Beville Stanier Bt

### 1. MINUTES

RESOLVED –

That the minutes of the meeting held on 11 September 2017 be approved as a correct record.

### 2. TAXI AND PRIVATE HIRE LICENSING: FEES AND CHARGES

The Committee received a report which proposed a review of taxi and private hire fees and charges, and proposed the Regulatory Services Group Manager undertake formal consultation. This report had been considered at the Environment & Living Scrutiny Committee on 19 December 2017 in which Member feedback was sought to ensure additional governance. The Scrutiny Committee's focus for questions was on the legality of the proposed changes to fees and charges, and the response anticipated from the taxi trade.

Taxi and private hire license fees and charges had not been formally reviewed by AVDC for a number of years. Taxi licensing had been subject to a number of technological changes over the past two years in addition to changes in legislation and various initiatives brought in by Licensing Committee. AVDC was not allowed to make a profit from license fees and was obliged to carry forward any surplus or deficit to any future review of fees. LGA guidance was available [via this link](#) which aimed to provide Local Authorities with a breadth of considerations when assessing license fees. The LGA believed that regulatory services were at the heart of councils' economic growth and accounted to 50% of business' contact with the council. This guidance did not take into account specific statutory restrictions applicable to taxi and private hire fees so not all the costs listed were in the proposed fee structure.

The most significant change in fees were seen in the areas of hackney carriage and private hire driver licenses where the cost of a new three year license had risen from £156 to £193. This was due to the increased resource requirements imposed on local authorities by the Deregulation Act 2015 which enabled applicants from outside the Vale to apply for a driver license from AVDC. AVDC carried out a series of checks on all license applicants to determine whether they were fit and proper to drive and ensure they did not pose an unacceptable risk to the safety of the travelling public. These checks cost the authority staff resource and money in order to carry out.

It was proposed that hackney carriage vehicle and private hire vehicle license fees were reduced with new hackney carriage vehicle licence applications from £372 to £300 and new private hire vehicle licence applications from £342 to £307. This was due to the benefits of new digital technology which managed the bookings and issuing of licenses which had consequently reduced the necessary resource required for this service delivery. The fees themselves had originated from the cost of providing the service and took into account staff time as well as time for the administration of Licensing Committee meetings. The service could not make a profit but did not need to operate at a loss. The fees would be reviewed periodically to ensure they were correctly priced.

Members sought more information and were advised:-

- i. Changes to fees and charges had a clear rationale with a breakdown in figures available to the trade upon request.
- ii. The figure for license holder applications had plateaued but it was expected that the introduction of the English language and Safeguarding tests would reduce applications from outside Aylesbury Vale.
- iii. If objections were received and not withdrawn during the consultation period then Licensing Committee would consider these in May and agree the final fees with or without modification.

RESOLVED –

That the taxi and private hire licensing fees set out in the report be approved with effect from 1 April 2018 and that the Regulatory Services Group Manager be authorised to undertake the statutory consultation.

### **3. AMENDMENT TO TAXI AND PRIVATE HIRE POLICY**

The Committee heard the proposal of a small amendment to AVDC's policy on Taxis and Private Hire in respect to licensing of private hire vehicles. It had been found that a number of applicants had applied for AVDC private hire vehicle licenses with the intention of leasing them despite not residing within Aylesbury Vale and neither holding an AVDC private hire driver or operator license. Whilst not unlawful, the private hire vehicle license required not just the applicant but other persons using the vehicle to be specified. In practice, this was not being done and it had been more difficult for Officers to monitor who was driving the vehicles. To overcome this concern, the additional requirement meant that a vehicle license needed to be from a licensed driver or operator license holder. This requirement would only affect a small number of businesses which had already been notified of the proposed amendment. No relevant responses had been received to the notification.

Members sought more information and were advised:-

- i. The amendment would not be a condition of license so would not be subject to legal challenge.
- ii. Whilst difficult to quantify why these types of applications had been received by AVDC, it was expected that if the vehicle license applicants applied for a private hire/hackney carriage driver license then it would be rejected due to the detailed checks Officers carry out.
- iii. Deregulation meant that AVDC were unable to restrict applications to only those that lived or worked within Aylesbury Vale.
- iv. The enhanced vehicle check introduction was still ongoing but it was expected that this would impact vehicle license applications on older vehicles.

RESOLVED –

That the additional requirement in respect to the licensing of private hire vehicles be introduced as per the Officer report.

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

### **1 Purpose**

- 1.1 For Licensing Committee to consider objections received during the recent public consultation period on taxi and private hire licensing fees and charges and either agree the fees as proposed or vary them as they see fit. To authorise the Group Manager – Regulatory Services to implement the fees and charges.

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

- 2.1 That Licensing Committee considers objections received during the consultation period on taxi and private hire licensing fees and agree the final fees and charges, with or without modification.
- 2.2 In respect to vehicle and operator fees and charges that Licensing Committee recommend their approval by the appropriate Cabinet Member.
- 2.3 That the Group Manager – Regulatory Services is authorised to implement the introduction of the proposed taxi and private hire licensing fees from the 1<sup>st</sup> June 2018.

### **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. Following review the proposed taxi fees and charges are attached as Appendix 2.
- 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 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.

If objections are received and not withdrawn Licensing Committee must 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.

- 3.5 As required the statutory notice was published in the Bucks Herald newspaper for a 28 day period. The notice detailed the proposed date on which the fees and charges would come into effect if no objections were received (1st April 2018), and the date that fees and charges would come into effect were objections received and not withdrawn (1st June 2018).
- 3.6 During the 28 day consultation period responses/objections were received from 4 individuals. A summary of these with the Licensing Authorities response are attached in Appendix 3 to this report. Full copies of the objections received are available at Appendix 4. Where comments made were not relevant to the setting of taxi licensing and private hire fees and charges they have not been considered.
- 3.7 On the 17th April 2018 the summary of objections and responses document (Appendix 2) was sent to the 4 individuals who had taken the time to respond to the consultation along with information on the Licensing Committee process and this meeting date. To date no consultation responses have been withdrawn.
- 3.8 Attached as Appendix 5 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.
- 3.9 Attached as Appendix 6 is a report that came before Licensing Committee on the 15th January 2018 recommending that the taxi and private hire licensing fees set out in Appendix 1 of the report be approved with effect from the 1 April 2018; and that the Group Manager – Regulatory Services be authorised to carry out the statutory consultation.

#### **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.

Contact Officer  
Background Documents

Lindsey Vallis/Simon Gallacher 01296 585152/585083  
Open for business: LGA guidance on locally set licence  
fees

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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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Taxi fee review 2018 – Consultation comments and responses

During the consultation period 4 comments on the proposed taxi licensing fees were received. The comments relevant to the consultation are summarised below with responses to the specific issue raised. Comments not considered relevant to the fee consultation have not been responded to within this report.

Date received	Received from	Consultation Comment	Consultation response
21 <sup>st</sup> February 2018		A hackney carriage vehicle licence is £300. Private hire vehicle licences should be cheaper because they do not have meters and should follow all private hire rules.	The costs of reviewing and processing a hackney carriage and a private hire vehicle licence application are the same. No audit of the hackney carriage meter is carried out by the Licensing Authority and therefore this does not affect the fee charged.
4 <sup>th</sup> March 2018		Private hire vehicles should get a reduction of at least 50% on the licence fee for hybrid cars as these are environmentally friendly and the Council should be promoting this. Other licensing authorities take this approach.	We have considered introducing reduced licence fees for hybrid vehicles as we are keen to promote the use of more environmentally friendly vehicles in the Vale. However we have received advice that a vehicle licence fee should cover the associated costs of issuing the licence and that it would not be appropriate and may not be legally sound to discount the licence fee to incentivise the use of these vehicles. However we will continue to explore ways that we can promote the use of cleaner and environmentally friendly vehicles by the trade.
4 <sup>th</sup> March 2018		Drivers badges for private hire drivers should be cheaper as they are different to hackney carriage drivers badges.	The costs to the licensing authority of reviewing and processing a hackney carriage driver licence and private hire driver licence are the same. Licensing Committee have approved the introduction of a knowledge test, safeguarding training and an English language test for all driver applicants which will come into affect this year. These are likely to be provided by external agencies and not directly by AVDC and payment for these tests and training will be made directly to the provider by the applicant.

4 <sup>th</sup> March 2018		Red hackney carriage feels that £300 for a hackney carriage vehicle licence is still quite high compared to other licensing authorities	Consideration was given of the full costs to AVDC associated with the provision of a hackney carriage vehicle licence and the hackney carriage vehicle fee that was arrived at reflects these costs. The proposed fee is lower than the current fee and reflects reduced costs to AVDC as a result of the new online application and back office system and the booking system. Processes and costs differ in different licensing authorities dependent upon how they run their licensing service and what their fees include and do not include as per their taxi licensing policies.
4 <sup>th</sup> March 2018		We have been told before that the fee should go down as soon as everything goes online e.g. online applications. This happened a long time ago but we are still paying the same fee.	The proposed fees for operators and vehicles are lower than the current vehicle and operator fees and do reflect the introduction of new online application and back office computer systems. We are still in the process of implementing further changes to the online application and back office computer system that should further reduce the manual administration activity required to process and issue a licence. Once the system is fully implemented and working effectively then we will review the fees again to consider whether or not they need to change.
4 <sup>th</sup> March 2018		The fee should be fair and transparent and should be a 'one tariff fee' and should not be different for vehicles less than 6 years old or more than 6 years old.	Licensing Committee approved a single age limit for vehicles on 6 March 2017. The proposed fees reflect this policy change and detail a licence fee for a vehicle that is the same for any vehicle up to 10 years old.
4 <sup>th</sup> March 2018		Prices are still very high and there should be further consultation with the trade on their point of view.	The proposed fees reflect the cost of delivering the relevant licensing service. The legislative framework allows the Licensing Authority to recover the costs of the provision of the service and the proposed fees do this and no more. Whilst we appreciate that the trade would like prices to be lower, if prices are reduced further then the fees would not cover the cost of the service. Any shortfall would need to be met using other sources of Council income such as

			<p>Council Tax; it is unreasonable for residents or other businesses to effectively subsidise the commercial activities of others.</p> <p>We are still in the process of implementing further changes to the online application and back office computer system that should further reduce the manual administration activity required to process an issue a licence. Once the system is fully implemented and working effectively then we will review the fees again to consider whether or not they need to change. If changes are proposed then there would be further consultation with the trade.</p>
4 <sup>th</sup> March 2018		We believe there is less admin work as compared previously with the face to face meeting as everything is online and it is easier to fill in the application form	<p>Whilst the online application process has made it easier for applicants to apply for a licence the administration associated with the back office computer system has not reduced significantly. We are still in the process of implementing further changes to the online application and back office computer system that should further reduce the manual administration activity required to process an issue a licence. Once the system is fully implemented and working effectively then we will review the fees again to consider whether or not they need to change.</p>
4 <sup>th</sup> March 2018		You have not covered the 1 <sup>st</sup> time vehicle retest and 2 <sup>nd</sup> time vehicle retest fee – these need to be considered as well.	<p>Vehicle test and retest fees are set by the Pembroke Road testing centre and adhere to the guidelines set out by the DVLA regarding testing and retest fees. The MOT testing fees charged by the Pembroke Road test centre to the Licensing Authority are directly incorporated into the vehicle application fee with no adjustment. Where a vehicle fails an MOT, fees for retest are charged in line with DVLA guidelines on when a fee should be charged and how much that fee should be. More information on MOT testing fees can be found at <a href="https://www.gov.uk/getting-an-mot/retests">https://www.gov.uk/getting-an-mot/retests</a></p>

4 <sup>th</sup> March 2018		A full range of suggested alternative fees was provided for the licensing authority to consider instead of the proposed fees	The suggested alternative fees do not reflect the costs of the provision of the relevant licensing service. The legislative framework allows the Licensing Authority to recover the costs of the provision of the service and the proposed fees do this and no more. Whilst we appreciate that the trade would like prices to be lower, if prices are reduced further then the fees will not cover the cost of the service. Any shortfall would need to be met using other sources of Council income such as Council Tax; it is unreasonable for residents or other businesses to effectively subsidise the commercial activities of others.
4 <sup>th</sup> March 2018		Private hire vehicle owners who have more than one vehicle should be given a discount	The cost to the Licensing Authority of reviewing and processing a vehicle licence application does not decrease as a result of an owner having more than one vehicle. It is therefore not appropriate to offer a discount to owners of more than one vehicle. The legislative framework allows the Licensing Authority to recover the costs of the provision of the service and the proposed fees do this and no more. Whilst we appreciate that the trade would like prices to be lower, if prices are reduced further then the fees will not cover the cost of the service. Any shortfall would need to be met using other sources of Council income such as Council Tax; it is unreasonable for residents or other businesses to effectively subsidise the commercial activities of others.
4 <sup>th</sup> March 2018		We now only have to take the vehicle to the garage once (instead of twice per year) saving council and admin work. The fee is still too high and doesn't reflect this.	The proposed fee covers the cost of the MOT test and enhanced taxi test. The proposed vehicle licence fees are lower than current fees.
4 <sup>th</sup> March 2018		The proposed fees do not state whether the drivers licence new and renewal fees include or do not include the cost of the DBS check	At the point of application the cost of the DBS check is added to the licensing fee and collected from the applicant as is the case with the current fee framework. The DBS

			<p>fees are detailed separately because the DBS service is provided to AVDC by an external provider and prices are liable to change. This is not something that AVDC have any control over or which we can set through the licensing regime.</p>
4 <sup>th</sup> March 2018		<p>Could we allow the payment of the operator licence fee in 3 instalments over 1, 3 and 5 years as the fee is high and some people can't afford to pay it all in one go</p>	<p>The legislative framework indicates that the fee charged must be paid at the point of application. Without a fee a licence application is deemed invalid. The legal position is that 5 year operator licences are the norm , however the Licensing Authority has a discretion to grant licences for a shorter period <b>as may be appropriate in the individual circumstances of the case.</b></p> <p>The implication is that the discretion to grant shorter period licences arises because of a matter that comes to light during the determination process and should be treated as exceptional and determined by the circumstances of the individual case, rather than as a blanket policy. As such it is not appropriate to routinely offer a shorter licence period or to provide for staged payments.</p>
21 <sup>st</sup> February 2018		<p>I object to the removal of the shorter period for the private hire operators licence. If there is only a single 5 year licence at £677 then this is a considerable sum to be paid in one go by small operators. If a single licence period is to be the only option, then perhaps this could be split to paying £67.70 a month for 10 months or another combination (3 months, 6 months) over a period of time during the first year of the licence period.</p>	<p>The ability to issue a 1 year operators licence was removed by the Deregulation Act 2015 on 1 October 2015</p> <p>The legislative framework indicates that the fee charged must be paid at the point of application. Without a fee a licence application is deemed invalid. The legal position is that 5 year operator licences are the norm , however the Licensing Authority has a discretion to grant licences for a shorter period <b>as may be appropriate in the individual circumstances of the case.</b></p> <p>The implication is that the discretion to grant shorter period licences arises because of a matter that comes to light</p>

			during the determination process and should be treated as exceptional and determined by the circumstances of the individual case, rather than as a blanket policy. As such it is not appropriate to routinely offer a shorter licence period or to provide for staged payments.
26 <sup>th</sup> February 2018		I am fundamentally against increases in the fees because I cannot see how the Licensing team provide any value or services to the taxi and private hire community	<p>The proposed fees reduce the cost of both vehicle and operator applications from the current fee rate. The cost of driver licence applications has increased and reflects the additional checks and administration associated with changes introduced by the De-Regulation Act 2015. The legislative framework allows the Licensing Authority to recover the costs of the provision of the service and the proposed fees do this and no more. Whilst we appreciate that the trade would like prices to be lower, if prices are reduced further then the fees will not cover the cost of the service. Any shortfall would need to be met using other sources of Council income such as Council Tax; it is unreasonable for residents or other businesses to effectively subsidise the commercial activities of others.</p> <p>Comments, complaints or suggestions about improvements to the services the Council provides should be made through our Compliments, Comments and Complaints process via our website at <a href="https://www.aylesburyvaledc.gov.uk/section/comments-compliments-or-complaints">https://www.aylesburyvaledc.gov.uk/section/comments-compliments-or-complaints</a></p>
26 <sup>th</sup> February 2018		You have failed to provide any justification for the price increase. Perhaps if you provided some justification then it might be easier to see why you want to increase prices	The proposed fees reduce the cost of both vehicle and operator applications from the current fee rate. The cost of driver licence applications has increased and reflects the additional checks and administration associated with changes introduced by the De-Regulation Act 2015. A report on the methodology to support the proposed fees was presented to Environment and Living Scrutiny

			<p>Committee on the 19 December 2017 and a report was taken to Licensing Committee on the 15 January 2018. These meetings are open to the public and the report papers are publically available on our website.</p>
26 <sup>th</sup> February 2018		You only detail the new costs. It would be good to show the current scale of costs and the proposed scale of costs for comparison then we can all see what the implications are.	<p>The consultation documents which were available on the AVDC website detailed the proposed fees. Current fees are available on our website at <a href="https://www.aylesburyvaledc.gov.uk/taxi-licensing-fees">https://www.aylesburyvaledc.gov.uk/taxi-licensing-fees</a></p> <p>A report on the methodology to support the proposed fees was presented to Environment and Living Scrutiny Committee on the 19 December 2017 and a report was taken to Licensing Committee on the 15 January 2018. These meetings are open to the public and the report papers (detailing proposed and current fees) are publically available on our website.</p>
26 <sup>th</sup> February 2018		Even if there are valid objections it wouldn't seem to matter as you will force the price increases on the 1 <sup>st</sup> June 2018 if not the 1 <sup>st</sup> April	<p>As consultation comments were received during the consultation period the fee increases did not come into effect on the 1<sup>st</sup> April 2018. Consultation comments will be presented to Licensing Committee on the 21<sup>st</sup> May 2018 at which point the Committee can either implement the fees as proposed or seek to vary them.</p>
26 <sup>th</sup> February 2018		Why do you only list private hire operators 5 year licence? Presumably because this fee has changed and the option of a one year licence still exists at the old price?	<p>The ability to issue a 1 year operators licence was removed by Deregulation Act 2015 on 1 October 2015</p> <p>The legislative framework indicates that the fee charged must be paid at the point of application. Without a fee a licence application is deemed invalid. The legal position is that 5 year operator licences are the norm, however the Licensing Authority has a discretion to grant licences for a shorter period <b>as may be appropriate in the individual circumstances of the case.</b></p>

			<p>The implication is that the discretion to grant shorter period licences arises because of a matter that comes to light during the determination process and should be treated as exceptional and determined by the circumstances of the individual case, rather than as a blanket policy. As such it is not appropriate to routinely offer a shorter licence period or to provide for staged payments.</p>
26 <sup>th</sup> February 2018		<p>You may have saved money by implementing a new computer system but we have not seen any reduction in costs even though you may have benefitted from it.</p>	<p>Whilst the online application process has made it easier for applicants to apply for a licence, the administration associated with the back office computer system has not reduced significantly. We are still in the process of implementing further changes to the online application and back office computer system that should further reduce the manual administration activity required to process and issue a licence. Once the system is fully implemented and working effectively then we will review the fees again to consider whether or not they need to change. The Council is not legally permitted to make a profit from licensing fees. Fees are 'ring fenced' and any surplus or deficit is taken into account when setting subsequent years' fees.</p>

**Vallis, Lindsey**

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**From:** [REDACTED]  
**Sent:** 21 February 2018 01:02  
**To:** Taxi Licensing Mailbox  
**Subject:** Licence Fees Consultation 2018

Hi  
I just wanted to raise a few queries,  
Hackney Carriage Vehicle License is £300

Private hire should be a cheaper as we do not have meters and should follow all private hire rules.

Private hire vehicles should also get a further Discount like all other boroughs at least 50% reductions for hybrid cars as these are greener environmentally friendly cars the council should be promoting this. Currently south Oxford charge £85 for annual license for hybrid.

Drivers Badges for private hire should be cheaper as they are again different from Hackney Carriage.

Thanks for taking my points into consideration.



**Vallis, Lindsey**

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**From:** [REDACTED]  
**Sent:** 21 February 2018 07:44  
**To:** Taxi Licensing Mailbox  
**Subject:** Objection to the proposed licence tariff increases.

Good morning,

The objection I have is the removal of a shorter period for the Private Hire Operators licence. If there is only a single 5 year licence at £677, this is a considerable sum to be paid in one go by small operators. If single licence period is to be the only option, then maybe this could be split to paying say £67.70 per month over 10 months, or some other combination (3 months, 6 months) over a period of time, in the first year of the licence period.

Kind regards,

[REDACTED]  
Director  
JALT Services Limited  
Website: [www.jaltservices.com](http://www.jaltservices.com)

Email: [REDACTED]  
Tel: [REDACTED]  
Mob: [REDACTED]



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driven

Licence Fees Consultation 2018  
Taxi Licensing  
The Gateway,  
Gatehouse Road  
Aylesbury  
HP19 8FF

26<sup>th</sup> February 2018

To Whom in May Concern

**Proposed taxi and private hire fees and charges from the 1 April 2018**

Whilst I am not surprised that you wish to increase the fees you charge us for licensing, I am fundamentally against the increases. Not because they will impact my business hugely as I will simply increase prices but because, even at the current levels, I cannot see how the Licensing team provide any value or service to the Taxi and Private Hire Community.

Let me start with this initial communication –

- You have failed to provide any justification for the price increase. Perhaps if you provided some justification it might be easier to see why you want to increase the prices.
- You only detail the new costs. It would be to show the current scale of costs and the proposed scale of costs for comparison. Then we can all see what the implications are.
- Even if when are valid objections it wouldn't seem to matter as you will force the price increases on 1<sup>st</sup> June 2018 if not the 1<sup>st</sup> April
- Why do you only list 'Private Hire Operators Licence 5 year licence'? Presumably because this fee has changed and the option of a one year licence still exists at the old price?

My objections are entirely around the service provided by the licensing team as probably 99% of the time I have to deal with the council I do so with a sense of foreboding. Sadly, it is a rare day that I am proved wrong.

- Every year for three years you have failed to issue my vehicle license on time and I have to phone to chase why this is. Normally it has been overlooked but, even then, I still have to wait for it. And then I can only collect it between 1000 and 1200. This is very restrictive considering the Customer Service Centre is open all day.
- You seem to think that answering incoming emails within 5 days is acceptable. It is wholly unacceptable in this day and age. I would have thought that 2 working days to be the target if not 24 hours. This is if you even bother to answer emails. You have not managed to do this for several of the last emails I have had to send you (6<sup>th</sup> October 2017; 16<sup>th</sup> November 2017 and 25<sup>th</sup> January 2018 to cite but a few instances)
- You operate as some kind of dictatorship and feel it is ok just to tell us what we need to be doing as opposed to asking us. Maybe it's just semantics but you are providing a service. Giving me 3 hours notice to return a document to you before suspending my drivers licence is an example of this. You could have simply asked for it by a deadline as opposed to demanding it with menaces. I have received an apology for this incident but it shouldn't have, and wouldn't have, happened if there was a business relationship between the Licensing Department and the Operators

driven



- You seem to hold operator meetings on an irregular basis and it cannot be possible for all operators to attend as they are trying to run their business. Why is an agenda not sent to us beforehand? Why notes from the meeting are not sent out afterwards?
- Why do we not see results of the random checks you carry out on vehicles and details of any with defects? You used to send out an email about this but seem to have cowed to pressure and we do not seem to see this information any more. The number of 'local' private hire vehicles I use which are in shabby or poor condition and with warning lights on the dashboard appals me. And the standard of driving is generally poor – my mother was so scared by the standard of one driver that she wanted to get out of the car and would have done so if it hadn't been late at night and several miles from home.
- The Vehicle Test booking system is a farce, why was it changed? It worked so well when you issued next date along with the current vehicle licence. It really is not beneficial to Operators in any way. I had to wait a 2 weeks to get a booking for a brand new car tested. So a £75,000 investment with no legal requirement for an MOT sat on my drive whilst I was earning no money because it couldn't be fitted in with the computer system. A more personable approach would have been sensible.

Sadly I feel that all of this stems from the implementation of the awful computer systems and the loss of any personal contact between the Council and the Operators. You may have saved money by implementing it but it doesn't save any time from my point of view and we saw no reduction in costs even though you must have benefited from it. The system can only operate to the parameters you have set whereas having a business relationship allows for an element of common sense and an explanation of any problems as they occur.

I know I am not the only operator to feel anger and disappointment with the lack of service provided by you so do not suggest that I am just disgruntled with the way things are run. However, whilst I am sure that none of my points have any resonance with you, I doubt you will even reply – even within your 5 day response window.

Yours sincerely



**From:** [REDACTED]  
**Sent:** 04 March 2018 18:52  
**To:** Taxi Licensing Mailbox; Taxi Licensing Mailbox  
**Cc:** [REDACTED]  
**Subject:** Licence Fees Consultation 2018

Hi Team

Please find below responses for the Licence Fees Structure, Do we get another chance before you sent the Final Version of Draft to TAXI Licensing Committee.

if you need more info or clarification please let us know.

**HACKNEY CARRIAGE VEHICLES – Annual Vehicle Licence Fee £ 300**

Red Hackney Carriage feels that £300 is still quite high as compared to other licensing authorities.

As we have been told by Peter licensing in the past, fee will go down as soon as everything go Online. E.g online application platform. This had been done long time ago and still we paying more than Normal fee. Fee should be fair and transparent and should be “One Tariff Fee”, should not be different fee for less than 6 years old vehicles or older than 6 years.

We feel these prices are still very high and should be consulted with trade for further point of view. We believe there is less Admin work as compared to previously face to face meeting. Everything is moved to online and is quite easier to fill in the application form.

Did not mention about 1<sup>st</sup> time Retest fee and 2<sup>nd</sup> time Re-test fee, one needs to consider about these fees as well.

Fee should be within £250-300 range.

Replacement vehicle to expire on original licence date £ 102

Should be in between £70—80

Insurance Replacement Vehicle £ 180

N/A

**PRIVATE HIRE VEHICLES – Annual Vehicle Licence Fee £ 307**

Again this should be less than £307 price range, should be given more discount who owned more than one vehicle. E.g 1 owner owns more than 1 vehicle + operator license.

Also we don't have to take vehicle to garage more than 1 so we are saving Garage and council Admin work. In my opinion its still too high for the trade.

Replacement vehicle to expire on original licence date £ 102

N/A

Insurance replacement vehicle £ 180

N/A

DRIVERS LICENCE – Hackney Carriage/Private Hire Driver's

Licence Renewal (before previous licence expires) £ 175

Did not mention is it included with DBS Check or without DBS check.

**Hackney Carriage/Private Hire Driver's Licence for three years £ 195**

Its still too high and needs to be considered furthermore.

--PRIVATE HIRE OPERATORS LICENCE

– Private Hire Operators Licence 5 year licence £ 677

Do we allow to pay the payments in 3 installments or have we got 3 years operator license fee structure.

We feel £677 is very high and some people can't afford to pay all in one, so should we consider an Installment Plans.e.g 3 Years or 5 Years.

Thanks

## **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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## **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

## **REPORT ON THE COUNCIL'S LIMITATION POLICY IN RESPECT TO AYLESBURY TOWN**

Tracey Aldworth

### **1 Purpose**

- 1.1 For Members to consider deferring an unmet demand survey in respect to the Council's hackney carriage limitation policy for Aylesbury town.

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

- |   |
|---|
| 2.1 For Members to agree to defer carrying out an unmet demand survey in respect to the Council's hackney carriage quantity control policy for Aylesbury town for the reasons set out in this report. |
|---|

### **3 Supporting information**

- 3.1 The number of hackney carriages (taxis) serving Aylesbury town is limited to 50. They are identifiable as black, purpose built taxis displaying a white plate on the rear. Outside the town in the rural district the Council do not limit the number of taxis and at the time of writing this report there are 15 licensed white purpose built taxis displaying a red plate on the rear.
- 3.2 Section 16 of the Transport Act 1985 permits the Council to limit the number of taxis in respect of which licences are granted, if but only if the Council is satisfied that there is no significant demand which is unmet.
- 3.3 According to the Department for Transport Taxi and Private Hire Licensing: Best Practice Guidance dated March 2010, licensing authorities are encouraged to review quantity restriction policies every three years. The Department regards no quantity restrictions as best practice but acknowledges that ultimately what matters is what is in the interests of the taxi travelling public. This involves balancing the benefits and disadvantages of continuing to limit against those for removing it. So whilst the legal requirement to maintain a quantity restriction is unequivocally based on unmet demand, once established Members can also consider what is in the interests of the taxi travelling public.
- 3.4 The last full and detailed survey was carried out in 2014 and agreed in 2015. The survey concluded that there was no significant unmet demand. If the current Department for Transport Best Practice is to be strictly applied, demand should have been surveyed in 2017.
- 3.5 In March 2017, Members resolved that the Licensing Service prepare and agree with the Chairman a new specification for hackney carriages. In September 2017 the Licensing Committee agreed to defer carrying out an unmet demand survey to give hackney carriage vehicle proprietors the opportunity to upgrade their vehicles in accordance with the pending revised vehicle specifications. Members felt it was important that the availability of a fleet of new vehicles should be taken into account when considering demand for taxis. Establishing appropriate new vehicle standards has proved complex, however it is intended that the proposed new specification will be ready for presentation at the next Licensing Committee meeting in July 2018.
- 3.6 Access to ranks continues to be a contentious issue in Aylesbury town centre. Bucks County Council have implemented a number of changes to parking and traffic arrangements in Aylesbury Town Centre, which includes the installation of parking meters and removal or relocation of some ranks. Representatives from the taxi trade continue to report that these changes are

causing them financial hardship and adversely affect their ability to serve travelling members of the public. The Principal Licensing Officer has met with, and is in regular contact with, the new BCC Parking Manager. Bucks County Council have acknowledged that the situation is complex and a review of parking arrangements and taxi rank provision in Aylesbury is necessary. It is their intention to commence work on a review of parking and traffic arrangement in the town this summer.

- 3.7 Until the long term provision of parking, ranks and traffic arrangements is established it will be difficult to conduct a meaningful unmet demand survey.
- 3.8 In September 2017 the DfT established a 'Task and Finishing Group' with the remit of considering the adequacy and efficiency of legislation and guidance covering the licensing of taxis and private hire vehicles. One of the group's specific objectives is to consider whether the Government should accept the recommendations in the Law Commission's May 2014 report, which in turn includes a recommendation that licensing authorities retain the right to limit the number of taxis working in their area. Their report is expected to be presented to the Minister within the next two months. The DfT also have plans to release updated versions of its Statutory Guidance and Best Practice Guidance for consultation, which is likely to happen once the Minister's report has been presented. It may be advisable to await until at least the publication of the task and finishing group's report to see whether Section 16 limits are likely to be supported in the future before committing to a further survey.
- 3.9 Finally it should be noted that representatives of operators of the rural taxis, who operate outside of Aylesbury Town Centre, are keen for the current limit of 50, which has been in place for a number of years, to be reviewed at the earliest opportunity. They believe there is justification for increasing or removing the limit: there has been considerable redevelopment in and around the town centre and ongoing expansion of the local population, which they believe has likely led to an increase in demand for taxis in the town centre. They have also stated that the survey should take into account the whole District and not focus solely on Aylesbury Town Centre.

#### **4 Options considered**

- 4.1 None.

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

- 5.1 In order to maintain a quantity restriction in respect to hackney carriages for the town of Aylesbury the Council are required to carry out an unmet demand survey. Current best practice guidance recommends that the imposition of a limit be reviewed every three years. However there are several factors that potentially affect the outcome of a demand survey, specifically the introduction of new, higher specification vehicles, unresolved rank and parking provision and pending Department for Transport recommendations to Government and new guidance and best practice for Licensing Authorities.

#### **6 Resource implications**

- 6.1 The cost of the survey will be covered by income from taxi licensing fees.

Contact Officer

Simon Gallacher Ext 5083

Background Documents

Names of Background documents



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## **STREET TRADING REVIEW**

Tracey Aldworth

### **1 Purpose**

- 1.1 To seek Licensing Committee's consent to conduct a comprehensive review of street trading matters within the District.

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

- 2.1 That Licensing Committee consider the contents of this report and support a review of street trading in Aylesbury Vale over the next 12 months.

### **3 Supporting information**

- 3.1 Outside London, street trading is mainly controlled through the Local Government (Miscellaneous Provisions Act) 1982, the Highways Act 1980, the Pedlars Act 1871 and common law modified and supplemented by general and local legislation, as is the case with historic market towns.
- 3.2 Street trading legislation regulates the sale, or offering for sale, of anything in a street. Street trading is different from peddling in a number of ways but primarily a pedlar is an itinerant seller where as a street trader sells goods from a pitch. The Police are responsible for the licensing of pedlars and local authorities are responsible for the regulation of street trading.
- 3.3 A local authority can designate "Prohibited Streets", where no trading may take place, "Licensed Streets", where a licence is required to trade and "Consent Streets", where a consent is required from the district council. Operating without a licence or a consent is an offence and can result in a fine and confiscation of goods.
- 3.4 Trading occurs across Aylesbury Vale in a variety of ways:
- 3.5 Established historic markets operate in Aylesbury, Winslow, Buckingham and Wendover. Trading in markets or fairs held under an acquired right by virtue of grant (including presumed grant) or acquired or established by virtue of an enactment or order is not consider 'street trading' for the purposes of the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, para 1(2)(2). These markets are managed by Aylesbury Vale District Council (Aylesbury Town Centre and Winslow General Market), Winslow Town Council (Winslow Famers Market), Buckingham Town Council and Wendover Parish Council. Traders are generally licensed on a casual or permanent basis and subject to local rules and conditions.
- 3.6 Over the years 'Consent Streets' have been designated in Aylesbury Town Centre, Buckingham and Wendover. The Licensing Team are responsible for issuing consents to traders wishing to operate from approved pitches within the consent areas. Consents are subject to various conditions designed to prevent: obstruction or danger to persons using the street, nuisance and annoyance. Consents have historically been issued to allow either 'day time' or 'night time' trading.
- 3.7 Pavement licences can be issued under the Highways Act 1980 by Bucks County Council as well as AVDC, with the consent of the County. AVDC has consent to grant pavement licences to businesses in Kingsbury and George Street; this was a historical decision to help promote a 'café style culture'

when Kingsbury was regenerated around 2004 . Pavement licences are subject to various conditions, which include controls on the permitted hours of operation.

- 3.8 Unregulated trading can occur across the District, for example outside consent areas and on privately owned land, including land owned by AVDC.
- 3.9 As a consequence of the various control regimes, traders operate under different terms and conditions and pay differing amounts in order to conduct their business.
- 3.10 A number of traders, particularly those operating under consents, are reporting financial hardship to the Licensing Team and are struggling to pay fees. Some traders have built up considerable arrears. Consents may be granted up to 12 months and the Council “may charge such fees as they consider reasonable” (Schedule 3 paragraph 9(1)). Furthermore the Council may determine different fees according to the duration of the consent, the street in which trading is authorised and the description of articles which the holder is authorised to trade. The Council is also permitted to allow fees to be paid in instalments.
- 3.11 The different authorising regimes has led to some conflict, particularly in Aylesbury Town Centre where market traders are required to operate to different standards, which are arguably to a higher standard than those imposed on ‘consent’ traders.
- 3.12 The Local Government (Miscellaneous Provisions) Act 1982, Schedule 4 paragraph 7, gives the Council powers to refuse to grant and revoke or vary the conditions attached to a consent at any time; the holder of the consent does not have any right of appeal. Presently there are no clear procedures laid down to guide decision making.
- 3.13 Aylesbury Town Centre is going through a period of significant transformation supported by significant investment. The Aylesbury Town Centre plan sets out the vision for the town and it is important that future street trading is planned so it complements this vision to preserve the town’s history while creating an attractive, flexible public space that people of all ages want to spend time in.
- 3.14 The Licensing Service has received a number of enquiries from new traders who would like to operate within the consent areas. Furthermore, some existing traders have reported difficulties with their current trading areas such as problems accessing power, intermittent street lighting problems and loss of trade through road works.
- 3.15 There has not been a consolidated review of street trading arrangements in AVDC for many years. It is proposed that the Licensing Service conduct a comprehensive review of street trading arrangements in Aylesbury Vale over the next 12 months to:
  - 3.16 consult and obtain views from key stakeholders;
  - 3.17 establish an accurate picture of street trading matters across the District;
  - 3.18 analyse whether the current authorised pitches are fit for purpose;
  - 3.19 ensure the approach to street trading in Aylesbury Town Centre is in line with the Council’s vision for Aylesbury town centre;
  - 3.20 promote safe guarding controls;

- 3.21 consider arrangements in other urban centres, notably Buckingham, Wendover and Winslow and perhaps others as well;
- 3.22 ensure geographic boundaries of markets and consent areas are clearly defined;
- 3.23 explore how greater partnership working can be promoted;
- 3.24 investigate the extent of unauthorised trading across the District and review whether additional controls are necessary;
- 3.25 review enforcement arrangements;
- 3.26 analyse the current consent streets;
- 3.27 evaluate current fee levels;
- 3.28 compare current terms and conditions with a view to achieving consistency and flexibility;
- 3.29 establish clear revocation, variation and refusal procedures and consider whether an appeal process should be introduced;
- 3.30 improve web based content;
- 3.31 review arrangements in other comparable Districts.

#### **4 Options considered**

- 4.1 None

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

- 5.1 To allow the Licensing Committee the opportunity to consider some of the issues relating to street trading and report their views on matters that should be included in a review of street trading in Aylesbury Vale.

#### **6 Resource implications**

- 6.1 No additional resources required.

Contact Officer	Simon Gallacher ext 5083
Background Documents	N/A

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