

SUBJECT:	Hackney Carriage and Private Hire Fees
REPORT OF:	Officer Management Team - Director of Services Prepared by - Head of Healthy Communities

1. Purpose of Report

- 1.1 To provide Members with proposed fees in relation to the licensing of Hackney Carriages and Private Hire Vehicles and Operators so that these can be considered and the fees agreed ahead of the required consultation.

2. Links to Council Policy Objectives

- 2.1 There is a link between an effective licensing regime for Hackney Carriage and Private Hire Vehicles and Operator and the Council's policy objective for Safe Communities.

3. Background

- 3.1 The fees in relation to the licensing of Hackney Carriages and Private Hire Vehicles and Operators were last increased in 2011 following the Licensing Committee meeting on 15th June 2011. This report sets out the proposal for fees from April 2015 as detailed in Appendix 1
- 3.2 The licence fees for vehicles, operators and drivers are subject to the provisions of the Local Government (Miscellaneous Provisions) Act 1976 ("1976 Act"). Section 53(2) of the 1976 Act in respect of Drivers Licences for hackney carriages and private hire vehicles provides that the Council may charge and recover the reasonable costs of issue and administration.
- 3.3 Section 70 of the 1976 Act further provides that the Council may charge such fees for the grant of vehicle and operator licences as may be sufficient to cover in whole or part the reasonable costs of carrying out inspections of vehicles, reasonable administrative or other costs, and the control and supervision of hackney carriages and private hire vehicles. The 1976 Act requires that where it is proposed that a fee exceeding £25 be imposed regarding vehicle and operators licences, an advertisement be published in the local newspaper, giving 28 days for objections. The Council also follows the same procedure regarding Drivers Licences.
- 3.4 If objections are received during the consultation period the authority must give them due consideration before either modifying or confirming the proposed fees. Once agreed, whether modified or otherwise, the fees will come into operation on the date to be agreed, without the need for further consultation.
- 3.5 The Licensing Service has been through the service review process as part of the shared service programme, which identified that the Council had not recovered the

costs of licensing for some time. The review also identified that as the costs are now shared then the fees should reflect the costs of the shared service with an aim of being cost neutral to both councils. The reduced costs of the service delivery arising from a single joint team and on line systems have minimised the increases required regarding some of the licence fees.

4. Fee setting process

- 4.1 The Licensing Service should be operated on a cost neutral basis as the legislation allows for full cost recovery of the licensing functions but requires that the service does not make a profit.
- 4.2 Recovery of enforcement costs incurred in connection with unlicensed drivers and operators from fees is not permitted under the legislation.
- 4.3 Fees may only be charged for functions connected to a specific licence i.e. private hire costs may not be offset against hackney carriage costs.
- 4.4 There have been recent legal challenges to the level of fees that have been levied by licensing authorities. The focus of these challenges has been where fees are considered to be higher than the cost of exercising the functions connected to the provision of licences and also where it has been considered that recovery of enforcement costs via fees is occurring.
- 4.5 Whilst surpluses and deficits have to be taken into consideration when setting fees. The fees for Hackney Carriages and Private Hire licensing has to be treated separately, so one cannot offset the other.
- 4.6 Appendix 4 shows that each year since 2011/12, the Licensing Service has not achieved full cost recovery and has had significant deficits in each of those years across all of the regimes that are licensed by the service. However the detail of the losses in relation to Hackney Carriages and Private Hire is not known. Therefore it is not proposed to recover any deficits within the current proposed fees and some of the proposed fees remain the same as set in 2011.
- 4.7 To ensure that the Council's fees are set appropriately for each Hackney and Private Hire licence, the following process has been used:
 1. The volume of work and the time taken to carry out all licensing functions associated with each taxi and private hire licence was estimated using data from the last 12 months.
 2. The Licensing Service resource costs taken from the current year joint service budget
 3. Items 1 and 2 above were used to establish the cost of the time spent on each function. This enabled the costs associated with the time spent on Hackney Carriage and Private Hire to be identified.
 4. The calculated costs relating to Hackney Carriage and Private Hire were compared to current fees to consider the appropriate level of the proposed fees.

5. Deficits and surpluses from previous years were considered as detailed in Paragraph 4.6 above.
- 4.8 As the costs have to be considered separately for all Hackney Carriage and Private Hire licences, the table in Appendix 3 shows the breakdown of time that is spent (as minutes per process) on each licence type and the associated cost in doing so, was taken into consideration.
- 4.9 The service review has identified that 60% of the joint service time is spent on Hackney Carriage and Private Hire delivery as shown in Appendix 2, the cost of which is £289,782 per annum.
- 4.10 The table of proposed fees for Hackney Carriage and Private Hire to be considered across both Chiltern and South Bucks (reflecting the joint service costs) attached in Appendix 1 will account for an increased income of £47,038, whilst still not achieving full cost recovery.
- 4.11 The proposed fees are set lower than the estimated cost of recovery for the licensing function to ensure that the Council is protected against the risk of a challenge connected to these fees and charges. If the fees are agreed as proposed, it is estimated that £253k of the cost of the licensing service will be recovered.

5. Further Information

5.1 Discounted Licences

A discount of 50% is provided for wheelchair accessible vehicles and fuel efficient vehicles (as defined in the Council's adopted Hackney Carriage and Private Hire policy). This discount does not have any effect on the standard fee and is a policy decision to encourage the use of such vehicles, which prevents full cost recovery in these circumstances.

5.2 Dual Drivers Licences

Currently Drivers are able to apply for a 'Dual' driver licence, which enables drivers to apply for a single licence to drive both hackney carriages and private hire vehicles without the requirement to apply for both a Hackney Carriage Drivers licence and a Private Hire Drivers licence. At the time Dual Licences were introduced it was considered that the advantage to the Council would be that it could apply the Private Hire Conditions to a driver operating as a hackney driver holding a dual licence. Case law now prevents this, therefore offering no administrative advantage to the Council in terms of enforcement. This will be considered at the time of any review of future policy. The review has identified that the current fee does not cover the cost of issuing dual licences which involves for example checking compliance with both hackney carriage and private hire criteria when determining the application. Therefore the additional administration involved in the issue of a dual licence as opposed to a Hackney Carriage Drivers licence or a Private Hire

Drivers licence is reflected in the proposal to maintain an additional nominal cost of £35 when compared to a 1 year Hackney Carriage Drivers Licence.

5.3 Disclosure and Barring Service Checks

Criminal Record Checks are now undertaken by the Disclosure and Barring Service (DBS) and are now known as DBS Checks. The DBS charges £44 for this service and this is currently included in the fee for a new licence. As the Council has no control over this DBS fee, it is proposed to show this as a separate fee in the fees table, which is charged in addition to the licence fees when these checks are required.

In addition a separate administration charge of £8.50 towards the costs of administration of the DBS process incurred by the Council is proposed.

5.4 3 year licences

The estimated cost of licensing a driver for 3 years has been calculated to be a saving of 10% administration time to the council compared to issuing three separate licences over a 3 year period. This saving has been passed to the drivers applying for a 3 year licence. On review, the current fees provide discounts of more than 10% which is too high to cover the cost of issuing those 3 year licences. This has resulted in the proposed fees being increased as shown in the table below:

Licence Type	Current Fee	Proposed Fee	Increase
Grant of 3 year Hackney Carriage driver	£165	£332	£167
Renewal of 3 year Hackney Carriage driver	£165	£256	£91
Grant of 3 Year Private Hire Driver	£165	£332	£167
Renewal of 3 Year Private Hire Driver	£165	£256	£91
Grant of 3 year Dual Drivers Licence	£270	£394	£124
Renewal of 3 year Dual Drivers Licence	£270	£297	£27

6. Resource, Risk and other Implications

- 6.1 The cost of carrying out the fees review and associated consultation including advertising costs will involve staff time and resources, but these costs will be met within the existing budget.

- 6.2 To achieve full cost recovery the licensing fees should reflect service costs. The proposed fees are set lower than the estimated cost of recovery for that licensing function to ensure that the Council's fees reflect current legislation and guidance as clarified by recent case law.
- 6.3 Whilst there is no right of appeal against fees once set, the decision of the Council could be the subject of a Judicial Review. If an application for Judicial Review were lodged this would result in legal fees to defend the review. In the event of a successful review the Council may also have to pay the applicants costs.
- 6.4 The proposed fees are set lower than the estimated full cost recovery for the Hackney Carriage and Private Hire licensing functions ensuring that the risk of challenge to the Council is low.
- 6.5 Dual Drivers licences should be considered at the next policy review as they do not provide the administration benefit to the council as originally intended and may incur costs should the council seek to enforce the conditions on the licences.

7. Recommendation

The Committee is requested to recommend to Council -

- 7.1 To approve the proposed changes to the fees for Hackney Carriage and Private Hire Licensing as set out in Appendix 1 and to authorise the Head of Healthy Communities to advertise the proposed fees increase for 28 days.
- 7.2 If no objections are received, the increases to the fees set out in Appendix 1 to become effective on 1st April 2015.
- 7.3 That any objections received during the consultation be considered by the Licensing Committee at its meeting on 18 March 2015 and the Licensing Committee determine the fees to come into effect on 2nd April 2015 with or without variation having had regard to objections received.
- 7.4 That the terms of reference of the Licensing Committee be amended to include the functions relating to the determining and setting of all fees relating to the licensing of hackney carriages and private hire vehicles including consideration of any representations thereon or objections thereto.

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Background Papers:	Local Government (Miscellaneous Provisions) Act 1976. The fees have been calculated using an excel database which is available on request.