

Chichester District Council
General Licensing Committee
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Proposed changes to the existing Licence fees for Hackney Carriages and Private Hire Licences

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2. Executive Summary

This report provides a summary of the proposed fee changes to the existing Hackney Carriage and Private Hire Licence fees as a result of the Deregulation Act 2015.

3. Recommendation

- 3.1 That Members adopt the proposed fees policy for the Hackney Carriage and Private Hire Licensing Regimes set out within Appendix 1 of this report.**
- 3.2 That Members consider and approve for public consultation the proposed Licence fees for 2016/17 for Hackney Carriages, Private Hire Vehicles and all Hackney Carriage/Private Hire Drivers Licences and all Private Hire Operators Licences within the Chichester District which are set out at Appendix 2.**

4. Main Report

Introduction

- 4.1 Currently most Local Authorities issue a driver's licence and private hire operator's licence for 1 year, however, Section 53 (drivers) and Section 55 (private hire operators) of the Local Government (Miscellaneous Provisions) Act 1976 (LG(MP)A) does permit for a driver's licence to be issued for up to 3 years and for a private hire operator's licence to be issued for up to 5 years.
- 4.2 The LG(MP)A has been amended by Section 10 of The Deregulation Act 2015 the effect being that Local Authorities should now issue hackney carriage and private hire driver's licences for the maximum period of 3 years and private hire operator's licences for the maximum period of 5 years. Such licences should only be issued for a lesser period if **'appropriate to the circumstances of the case'**. It is worth

noting that these changes have no impact upon the duration of hackney carriage or private hire vehicle licences.

- 4.3 As a result of the Deregulation Act 2015, an extensive review of this Council's taxi and private hire fees has been undertaken, in order to ensure that all fees associated with each application type have been properly costed and to determine what the appropriate fee would be for 3 year driver licences and 5 year private hire operator licences.
- 4.4 A document called 'Chichester District Council's Fees Policy for the Hackney Carriage and Private Hire Licensing Regimes' (The 'Fees Policy') has been devised listing key legal aspects and case law, as well as, outlining the methodology used to calculate the fees. A copy of this document is at **Appendix 1**. Some of the key legal points have been summarised below.

Legal Principles

- 4.5 Under Section 53(2) of the Local Government (Miscellaneous Provisions) Act 1976 Chichester District Council, as Licensing Authority, "*may demand and recover for the grant to any person of a Licence to drive a Hackney Carriage, or a Private Hire Vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of **issue and administration** and may remit the whole or part of the fee in respect a Private Hire Vehicle in any case in which they think it is appropriate to do so.*"
- 4.6 It is clear from the above and from the significant case law set out in the Fees Policy (**Appendix 1**) that fees for both hackney carriage and private hire drivers have to be reasonable and with a view to recovering the cost of issue and administration of the licenses. Administration has been interpreted to encompass compliance with the terms of the licence i.e. investigating complaints, conduct issues that might result in Committee Hearings etc. However, this Section of the Act makes no provision for recovering the costs of enforcement in relation to driver licenses.
- 4.7 Section 70(1) of the 1976 Act allows the Council to charge "*such fees for the grant of vehicle and operators licences as may be resolved by them from time to time and is maybe sufficient in the aggregate to cover in whole or in part.....*
- a) *the reasonable cost of carrying out by or on behalf of the District Council of inspections of Hackney Carriages and Private Hire Vehicles for the purpose of determining whether any such licence should be granted or renewed;*
 - b) *the reasonable cost of providing Hackney Carriage stands; and,*
 - c) *any reasonable administrative and other costs in connection with the foregoing and with the control of the supervision of Hackney Carriages and Private Hire Vehicles"*
- 4.8 In relation to the fees for hackney carriage and private hire vehicles, fees can be set to recover the cost not only of issue and administration of licences but also the cost of providing taxi ranks and other enforcement costs.
- 4.9 Different fees can be set in relation to hackney carriage vehicles and private hire vehicles to enable the cost of taxi ranks to only be recovered in respect of hackney carriage vehicles, as only these can use the ranks. However, the Chichester

District only benefits from a small hackney carriage fleet with the main two ranks being North and South side of Chichester Railway Station. Therefore at this current time it is not felt appropriate to be levying an additional charge for the creation and maintenance of ranks.

Proposed Fees for 2016/17

- 4.10 The Fees Policy (**Appendix 1**) outlines the methodology used to calculate the fees associated with each application type. A summary of the proposed fee structure can be found at **Appendix 2**.
- 4.11 Projected 2016/17 figures are based upon the assumption that the take up of 3 year driver licences and 5 year operator licences will be 80% each and the remaining 20% will be 1 year licences. This will result in income peaking in the first year, with income dropping substantially in the remaining 3 year period relating to drivers and 5 year period relating to operators. The figures above take this into account and have been averaged out in order to give a fair comparison.
- 4.12 The main reasons for the fall income after year 1 of the scheme is as follows:
- Drivers – Assumption that the majority of drivers will opt for the 3 year licence.
 - Drivers – Historically the fee for a dual licence has been double that for a hackney or private hire i.e. 2 x £85. There are no additional checks involved when processing an application for a dual licence. Therefore the dual driver's licence has been changed to the same fee as a single driver's licence. Only a small proportion of our drivers hold a dual licence.
 - Vehicles – Costs associated with providing this service have been re-assessed.
 - Vehicles – Since the fees were last reviewed in 2010, CDC policy has been implemented to require vehicles, over 5 year's old, to have 6 monthly MOT and fitness checks. The fitness checks must take place at our Westhampnett depot and also most proprietors make use of the MOT service provided by the Council at the same time. As a result the need for officers to spend time on checking vehicle standards and compliance has fallen.
 - Vehicles – No additional fee levied against hackney carriage vehicles for the provision of taxi ranks.
 - Private Hire Operators – Moving away from a tiered charging system based on size of fleet to a flat rate fee. The tasks associated with an application for a private hire operator licence and subsequent compliance is not necessarily influenced by the amount of vehicles operated.
 - Private Hire Operators – The assumption that the majority of operators will opt for a 5 year licence.
- 4.13 A benchmarking exercise has also been undertaken to compare the new proposed fees with neighboring Local Authorities to help provide Members with some comparative figures. This appears at **Appendix 4**.

Public Consultation on Fees Policy

- 4.14 Following consideration of the proposed new fees by Members there is a requirement upon the District Council to publish a public consultation notice in at least one local newspaper circulating in the area. Legislation then allows for

objections to be made against the proposed fees within a prescribed 28 day period from the date of publication of the notice. Any such objection(s) must be submitted in writing to the District Council within this period.

- 4.15 The General Licensing Committee will then consider any objection(s) or comment(s) received during the consultation period before determining whether to adopt the proposed fee structure in full or modify the fees in light of the comments received. The Committee have the ability to make any modifications to the fees as deemed necessary.

5. Conclusion

- 5.1 Following the legislative change outlined in this report a comprehensive review of Chichester District Council's taxi and private hire fee structure has been undertaken.
- 5.2 Licence fees are set at a level that it is reasonably believed will cover the costs of providing the service, and in accordance with the legal principles involved. This is necessary in order to ensure that the taxi and private hire communities are charged correctly, whilst at the same time minimising the taxpayer's subsidy of the work concerning the taxi/private hire licensing regime.

6. Human Rights and Equality Impact

- 6.1 The application of the Human Rights Act 1998, in particular the application of Article 8, Article 14 and Article 1 of Protocol 1 of the Convention will be considered in relation to the application and implementation of the recommendations contained in this report.
- 6.2 There are no equality issues raised by this report.

7. Background Papers

- 7.1 'Open For Business' – Local Government Association Guidance in locally set fees (Nov 2015)
- 7.2 James Button Bulletin - 'Licensing Fees – An Update' (June 2013)
- 7.3 James Button Bulletin (Dec 2015)
- 7.4 Button on Taxis: Licensing Law and Practice (Third Edition)
- 7.5 All Wales Licensing Expert Panel – Taxi Fees Toolkit v2.1

8. Appendices

Appendix 1 Chichester District Council's Fees Policy for the Hackney Carriage and Private Hire Licensing Regimes

Appendix 2 Proposed Fee Structure for 2016 onwards

Appendix 3 Benchmarking exercise comparing proposed fees with those charged by neighbouring Authorities