

# Chichester District Council

## General Licensing Committee 28<sup>th</sup> February 2024

### Proposed fees and charges for Hackney Carriage and Private Hire Licensing

#### 1. Contacts

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#### 2. Executive Summary

The Council is required to set application fees and charges relating to Hackney Carriage and Private Hire licensing matters. These were last set in 2016 and the proposal is to simply increase these in line with the rate of inflation published each year by the Office of National Statistics (ONS). The proposed revised fees and charges have now been the subject of public consultation. Objections to the proposed increases have been received and it is therefore necessary for these to be considered and the final fees and charges to be determined.

#### 3. Recommendation

- 3.1 That Members adopt the proposed revised fees and charges in relation to hackney carriage and private hire licensing as shown at Appendix 1 to take effect from 1<sup>st</sup> April 2024.**

#### 4. Background

- 4.1 It is expected that the costs incurred by the Council in carrying out its various statutory functions relating to hackney carriage and private hire licensing matters are covered by income generated by the associated application fees and charges. In the court case *Cummings and Others v Cardiff City Council* [2014] EWHC 2544 (Admin), it was confirmed that fees set must have regard to any surplus or deficit in previous years for each regime (hackney carriage and private hire).
- 4.2 In addition, it was held in *R v Westminster City Council, ex parte Hutton* (1985) 83 L.G.R. 461 that where the fee income generated in one year fails to meet the costs of administering the licensing system, it is open to the local authority to make a proportionate increase in the licence fee for the following year(s) so as to recoup the cost of the shortfall (Hutton at p 518). This longstanding principle was confirmed in later case law.

- 4.3 The Council must also account for any surplus monies. In *Hemming* [2012] EWHC 1260 (Admin) and [2013] EWCA Civ 591 the court determined surpluses as well as deficits are to be carried forward. However, the Council is not entitled to make a profit. (*R v Manchester ex parte King* [1991] 89 LGR 696).
- 4.4 It is recognised in law that general anticipated calculations and costs can provide a helpful picture. The Courts have directed that Councils are not required to pin-point precision year on year. The adjustment does not have to be precise: a general calculation which is broadly correct is considered satisfactory, but a cost neutral position needs to be attained, if not immediately then over a short period of time.
- 4.5 During 2016 an extensive and thorough review of the local licensing processes in place at that time was conducted, and the financial cost of providing the hackney carriage and private hire licensing service identified. A revised set of fees/ charges was subsequently determined, widely consulted upon with stakeholders, and adopted by the Licensing Authority in 2016, now having remained unchanged for nearly 8 years.
- 4.6 Since adoption of the current fees and charges in 2016, the Council has sought continually to make its licensing processes as efficient as possible to keep the cost to licence holders to an absolute minimum. However, over the past 8 years significant changes to its Policy, practices, and procedures have had to necessarily occur. This is in part as a result of the statutory taxi and private hire vehicle standards issued by the Department for Transport during 2020, together with other statutory changes introduced by HM Government to the overall licensing framework. The Department for Transport expects that the recommendations made in the statutory guidance to be implemented unless there is a compelling local reason not to.
- 4.7 The Council is not immune to inflation when providing goods and services, and this has been felt particularly in recent years. Currently income from fees and charges does not cover the full cost of providing the hackney carriage and private hire licensing service. It is therefore now necessary and appropriate for the associated fees and charges to be increased to reflect the true costs, and that they are fully recovered each year from its service users.
- 4.8 The power to set fees and charges with respect to vehicle and operator's licences is contained within Section 70(1) of the Local Government (Miscellaneous Provisions) Act 1976 (the 'Act'). The Act states that the Council "*may 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 and supervision of hackney carriages and private hire vehicles".*
- 4.9 With respect to driver's licences (both hackney carriage and private hire) the power to set fees are contained within Section 53(2) of the Act. The Act states that a district council "*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.”*

4.10 The Court of Appeal case: *R (on the application of Rehman) v Wakefield City Council* [2019] EWCA Civ 2166 established that costs of administration under Section 53(2) of the Act could include the costs of enforcement against drivers of hackney carriages and private hire vehicles. The Act allows for a range of costs to be recovered in the fees, including:

- The reasonable cost of carrying out vehicle inspection to decide if a licence should be granted;
- The reasonable costs of providing hackney carriage stands;
- Any reasonable administrative or other costs in connection with vehicle inspection and providing hackney carriage stands; and
- Any reasonable administrative or other costs in the control and supervision of hackney carriage and private hire vehicles.
- Regulatory and compliance matters associated with the licensed trade.

4.11 The cost of providing and maintaining Hackney Carriage stands can be levied against those using the stands. However, given the very small number of licensed hackney carriage vehicles (currently 439 licensed private hire vehicles and only 27 licensed hackney carriage vehicles) and consequently a very small number of ranks (5), the Council to date has not felt it necessary or appropriate to levy an additional charge for the creation and maintenance of ranks. Clearly the matter remains under review and should the position significantly change, then it may become appropriate to alter the hackney carriage vehicle application fee. It is important to note that there has been a steady decline in the number of hackney carriage vehicles and a significant increase in private hire vehicles.

4.12 The fees and charges made are used to cover staffing costs, administration as well as regulatory and compliance work where appropriate. Monies are also used to fund service improvements, including IT and digital development and Policy work which represents an appropriate and legitimate approach and is in accordance with the associated requirements in the Act.

4.13 Appendix 2 shows the income and expenditure in respect of the delivery of the hackney carriage and private hire licensing service for the last eight financial years. In order to assist, the following is summary of the total expenditure minus the total income and the resulting deficit balance for the last three full financial years:

<b>Year</b>	<b>Total Expenditure</b>	<b>Total Income</b>	<b>Deficit</b>
2020/2021	£211,122.44	£108,472.00	£102,650.44
2021/2022	£238,528.11	£163,997.52	£74,530.59
2022/2023	£238,165.53	£163,281.07	£74,884.46

4.14 With respect to this current financial year, the budget monitoring that to date has been undertaken, suggests that there will be a further income deficit this year.

## 5. Outcomes to be Achieved

- 5.1 To ensure that the various fees and charges associated with both the hackney carriage and private hire licensing regimes are set at the appropriate level, this being that the reasonable costs of providing the service are fully recovered.
- 5.2 To ensure the continuation of a paid for hackney carriage and private hire service in the locality which is integral to and supports the local public transport infrastructure. Such provision is essential to the needs of those visiting, working or residing within the Chichester district.
- 5.3 The primary purpose of the hackney carriage and private hire licensing regimes is the provision of a safe, accessible service whereby public safety is paramount. In order to achieve this, the service needs to be adequately resourced and funded and is expected that the proposed increase in fees and charges will achieve this outcome and ultimately promote public safety.

## 6. Proposal

- 6.1 To calculate the proposed revised fees and charges, those agreed in 2016 have been increased by the Council's inflationary policy for each financial year since, but not implemented previously due to national crises, including the COVID pandemic, and the Council's wish to support businesses whilst they navigated and recovered from these. The table below shows the rate of inflation applied to each year. These rates have been set by the Council within its fees and charges policy and follow the rate of inflation published by the Office of National Statistics (ONS) each September. The significant inflationary pressure has arisen in the current and previous financial year, but this is expected to continue into the next financial year:

2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
%	%	%	%	%	%	%	%	%
1.00	1.00	3.00	3.00	3.00	2.00	4.00	10.10	6.70

- 6.2 The proposed fees/ charges to be implemented from 1<sup>st</sup> April 2024 are shown at Appendix 1. Whilst the Council is proposing to increase its fees and charges, its Policy remains unchanged regarding refunds for certain licences surrendered during the period of the licence.

## 7. Alternatives Considered

- 7.1 Retain the existing fees and charges, however it is projected that this will result in the continuation of a deficit in terms of the income required to cover the reasonable costs of providing the hackney carriage and private hire licensing service. In such a situation funds generated from other areas e.g., Council Tax would have to subsidise the service.
- 7.2 Determine and adopt alternative fees and charges from those proposed at Appendix 1.

## 8. Resource and Legal Implications

- 8.1 None

## 9. Consultation

- 9.1 Section 70 of the Act requires the Council to advertise its intention to change the fees and charges associated with vehicle (both hackney carriage and private hire) and private hire operator licences for a period of 28 days during which objections can be made.
- 9.2 A statutory notice was displayed at the Council offices on the public noticeboard from the 11<sup>th</sup> January 2024 until the end of the 7<sup>th</sup> February 2024. In addition, a copy of the same notice was published in the Chichester Observer on the 11<sup>th</sup> January 2024.
- 9.3 As part of the consultation process, holders of an existing hackney carriage and/or private hire licence were written to advising them of the proposed increases to fees and charges. A total of 618 emails and 3 letters were sent.
- 9.4 A total of 12 written responses were received, one of which appeared to be from the same respondent. Included at Appendix 3 are copies of all responses.
- 9.5 All responses were recorded on a 'Register and Summary of Responses' document which is at Appendix 4. All responses have been carefully considered by Officers and comments made where appropriate.

## 10. Community Impact and Corporate Risks

- 10.1 Private hire and hackney carriage drivers, vehicles and operators are an important part of the local transport infrastructure. However, the cost of providing the licensing function must be paid for by the service user and the current deficit financial position is unsustainable.

## 11. Other Implications

Are there any implications for the following?	Yes	No
<b>Crime and Disorder</b>		✓
<b>Biodiversity and Climate Change Mitigation</b>		✓
<b>Human Rights and Equality Impact.</b>		✓
<b>Safeguarding and Early Help</b>		✓
<b>General Data Protection Regulations (GDPR)</b>		✓
<b>Health and Wellbeing</b>		✓
<b>Other</b> (please specify)		✓

## 12. Appendices

- Appendix 1 – Proposed fees structure with effect from 1<sup>st</sup> April 2024  
Appendix 2 – Breakdown of costs to deliver service 2015/2016 to 2022/2023  
Appendix 3 – Consultation responses (objections)  
Appendix 4 – Summary of consultation responses

### **13. Background Papers**

- 13.1 Statutory taxi and private hire vehicle standards issued by the Department for Transport – see [Statutory taxi and private hire vehicle standards - GOV.UK \(www.gov.uk\)](http://www.gov.uk)