

CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of meeting: 8 June 2011
Report of: Head of Safer & Stronger Communities
Title: Licence Fees - Hackney Carriage and Private Hire Vehicles, Drivers and Operators

1.0 Report Summary

- 1.1 The purpose of the report is to provide the Licensing Committee with information relating to the responses received to proposals to vary the licence fees payable in connection with licences for hackney carriage and private hire drivers, vehicles and operators.

2.0 Recommendations

- 2.1 The Licensing Committee is requested to consider the objections received in relation to the proposed variation of licence fees; and
- 2.2 Having considered the objections, to determine:
- 1 whether the variation of (i) the fees for licences relating to private hire vehicles and operators across the Borough; and (ii) the fees applicable to hackney carriage proprietors (vehicle) and joint drivers licences in each of the three hackney carriage zones, shall come into force, with or without modifications; and
 - 2 if a variation is approved, to set a date from which the variation shall take effect (any such date may not be later than 29 June 2011).

3.0 Reasons for Recommendations

- 3.1 The fees currently charged by the Council for licences relating to hackney carriage and private hire vehicles, drivers and operators were set by the Licensing Committee on 20 July 2009. On 7 March 2011 the Licensing Committee resolved to authorise the Borough Solicitor to publish a notice containing proposals to vary the level of fees charged by the Council. Objections to the proposals have been received within the consultation period and therefore the matter has been referred to the Licensing Committee for consideration.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

5.1 All

6.0 Policy Implications including - Climate change - Health

6.1 None

7.0 Financial Implications 2011/12 and beyond (Authorised by the Borough Treasurer)

7.1 The increase to fees suggested within the original proposals reflects the CPI (Consumer Price Index) figure for December 2010, i.e. 3.7%

7.2 In 2010/11 expenditure on the administration of hackney carriage and private hire licensing was some £345k; income was £336k. A change in fees will be required to help ensure cost recovery for the Service, in accordance with budget planning expectations reflecting changes in staffing and supplies costs which are estimated to bring total expenditure in excess of £350k.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 The statutory authority for the Council to make a charge in relation to the issue of hackney carriage and private hire licences emanates from sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act').

8.2 Section 53(2) of the 1976 Act provides that the 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.."

8.3 Section 70(1) of the 1976 Act states:

"Subject to the provisions of subsection (2) of this section, a district council may charge such fees for the grant of vehicle and operators' licences as resolved by them from time to time and as may be 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 or other costs in connection with the foregoing and the control and supervision of hackney carriages and private hire vehicles."

8.4 Section 70(3) of the 1976 Act prescribes that fees in relation private hire and hackney carriage vehicle licences and private hire operator's licences must be subject to statutory publication in a local newspaper with provision made for representations to be made within twenty-eight days of publication of the notice. If no objection is made within the period specified within the notice, or if all such objections are withdrawn, the variation to the fees will come into operation on the date of the expiration of the notice, or the date of the withdrawal of the last objection, whichever is the later. Where objections are received the Council must consider these representations and set a further date, not later than two months after the first date, on which the variation will come into force with or without modifications.

8.5 By virtue of regulation 2(6) of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000, the function of setting the fees in relation to hackney carriage and private hire vehicles, drivers and operators is a non-executive function. The Council's Constitution delegates the setting of these fees to the Licensing Committee.

9.0 Risk Management

9.1 Full consideration of any objections received in response to the publication of the notice would mitigate the risk of challenge to any decision taken.

10.0 Background and Options

10.1 As Members will recall, at its meeting on 7 March 2011 the Licensing Committee resolved to authorise the Borough Solicitor to publish a notice of proposed variations to the licences fees charged in relation to licences for hackney carriage and private hire vehicles, drivers and operators. The notice, a copy of which is attached as Appendix A, was published in local newspapers circulating within the Borough during the week commencing 28 March 2011.

10.2 Objections to the proposed variations have been received within the consultation period and the matter has therefore been referred back to the Committee for determination. Copies of the objections are attached at Appendix B.

10.3 Since the notice was published, in line with advice from the Criminal Records Bureau, the Council has amended its requirements in relation to CRB checks in relation to applicants for hackney carriage/private hire drivers licences. Rather than requiring all such applicants to undertake an Enhanced level CRB check (at a cost of £44), applicants will be required to undertake a Standard level CRB check (at a cost of £26). It should be noted that drivers who undertake 'regulated activity' (as defined within the Safeguarding Vulnerable Groups Act 2006) relating either to children or vulnerable adults will still be required to undertake an Enhanced level check.

- 10.4 The Licensing Committee is requested to determine whether any variation should be made, and if so the amount of the variation, in relation to the fees charged by Cheshire East Borough Council in relation to the issue of hackney carriage and private hire vehicles, drivers and operator. The Committee is reminded that, as the licensing of hackney carriages within the Borough remains on a zoned basis, the fees in relation to hackney carriages must be determined in relation to each of the individual zones.
- 10.5 The options open to the Committee are:
- (a) not to vary the existing licence fees;
 - (b) to approve the variation of (i) the fees for licences relating to private hire vehicles and operators across the Borough; and (ii) the fees applicable to hackney carriage proprietors (vehicle) and joint drivers licences in each of the three hackney carriage zones on the basis set out within the notice attached at Appendix A (i.e. without modification);
 - (c) to approve a modification to the proposed variation of (i) the fees for licences relating to private hire vehicles and operators across the Borough; and (ii) the fees applicable to hackney carriage proprietors (vehicle) and joint drivers licences in each of the three hackney carriage zones.

11.0 Access to Information

Appendix A – Notice of proposed variation

Appendix B - Objections in relation to the proposed variation

The background papers relating to this report can be inspected by contacting the report writer:

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APPENDIX A

CHESHIRE EAST BOROUGH COUNCIL

NOTICE is hereby given, in accordance with section 70 of the Local Government (Miscellaneous Provisions) Act 1976 ('the 1976 Act'), that Cheshire East Borough Council ('the Council') proposes to vary the licence fees currently charged in relation to private hire vehicles and operators throughout the Borough of Cheshire East ('the Borough') as follows:

	Existing Fee	Varied Fee
Private Hire Vehicle Licence (Annual)	£290	£301
6 month test (private hire vehicle) (over 7 years old)	£75	£78
Private Hire Operators Licence (5 years)	£335	£347

NOTICE is also hereby given, in accordance with section 70 of the 1976 Act, that the Council proposes to vary the licence fees currently charged in relation to hackney carriage proprietor (vehicle) licences and joint private hire/hackney carriage drivers licences in each of the three hackney carriages zones within the Borough, namely zone 1 (Congleton zone), zone 2 (Crewe & Nantwich zone) and zone 3 (Macclesfield zone) as follows:

	Existing Fee	Varied Fee
Hackney Carriage Proprietor (Vehicle) Licence (Annual)	£290	£301
6 month test (hackney carriage vehicle) (over 7 years old)	£75	£78
Joint Hackney Carriage/Private Hire Drivers Licence – New application (3 years)	£174 (excluding CRB fee)	£180 (excluding CRB fee)
Joint Hackney Carriage/Private Hire Drivers Licence – Renewal (3 years)	£114 (excluding CRB fee)	£118 (excluding CRB fee)

N.B. The Council has been notified by the Criminal Records Bureau that, with effect from 6th April 2011, the fee for an Enhanced Criminal Records Bureau disclosure will increase by £8, i.e. from £36 to £44. This would mean that the varied fee, including the CRB fee, would be £224 for a new application for a joint hackney carriage/private hire drivers licence and £162 in relation to a renewal application.

Any person wishing to object to the variation of the fees must do so in writing by no later than 28th April 2011. Objections must be sent to the Licensing Section, Westfields, Middlewich Road, Sandbach, Cheshire CW11 1HZ or by e-mail to licensing1@cheshireeast.gov.uk.

A copy of this notice will be deposited at the following locations during the consultation period and will be open for public inspection (without payment) during normal office hours: (i) Customer Centre, Town Hall, Market Place, Macclesfield; (ii) Reception, Westfields, Middlewich Road, Sandbach; and (iii) Reception, Municipal Buildings, Earle Street, Crewe.

If no objection to the proposed variation is made by 28th April 2011, or if all such objections are withdrawn, the variation shall come into operation on the date of expiration of the consultation period (i.e. 29th April 2011) or the date of withdrawal of the objection, or if more than one, of the last objection, whichever date is the later. In the event that objections are made and not withdrawn, these will be referred to a meeting of the Council's Licensing Committee for consideration

Dated: 30th March 2011
Caroline Elwood, Interim Borough Solicitor

APPENDIX B

OBJECTION 1

Operator Licence Fare Increase

In response to your advertisement in the Wilmslow Express dated 31 March 2011 regarding the above.

I object to the proposed increase as I feel these increases are totally unjustified on the grounds that Staff members are losing their jobs so costs should be going down not up. Also as we are not seeing any enforcement when complaints are made and no enforcement officers on the ranks.

Until this begins to occur then these increases can not be justified

OBJECTION 2

I formally give notice that I wish to object to the increase in fees.

As a Small Business operator I ask how you can justify the increase, what do we actually get for our money?.

Are you trying to help Small Business's or put them out of business, with the price of fuel going up daily and insurance on the rise we have to keep our fares at a reasonable price, therefore how do we absorb another hike in your charges.

Another point I object to is the way you charge for a vehicle which is 7 years or older, if the test is valid only for 6 months then we should only pay for 6 months (i.e. $\pounds 290 + \pounds 75 = \pounds 365/2 = \pounds 182.50$), this allows us as a business to plan only 6 months ahead with an older vehicle, after all if we tax the vehicle for 12 months we can apply for a refund of full months left if we decide to dispose of it.

I fully understand the need to save money when running a business, since taking charge here at Rainbow Cars nearly 2 years ago I have implemented many changes and feel that the Borough could also make some changes which would save time and wasted money, all it takes is to listen to the operator on matters over licensing and how they are issued, sometimes the answer is right under your nose but you are blind to the fact. A great idea is to have a working party of Licensing Officers and Business Owners who communicate ideas of what we can do to help each other, this I feel is the way forward.

OBJECTION 3

Please note my objection to the proposed increase. When the existing fees were set in 2009, at a very significant increase, the council accountant advised that the fees, eventually agreed, were based on the three separate councils' costs Pre-LGR. He further admitted that as LGR progressed, he would expect to see the benefits of LGR in a reduced Cost base. We have seen significant savings, staff taking "early retirement", closures of depots etc., unfortunately not always whilst

service levels to the trade. (Staff moved from Macclesfield to Sandbach and NO provision made for licence plates to be picked up in Macclesfield).

In addition, under the terms of the legislation the council are NOT permitted to use these licence fees as a "cash cow". Fees can NOT be treated as general revenue and no evidence has been produced as to how licence fees collected have been expended. Systematically, increasing fees in line with CPI /RPI or whatever is not allowed by legislation.