

CHESHIRE EAST COUNCIL

Cabinet Member for Localism and Enforcement

Date of Meeting: 1 July 2014
Report of: Miss Kim Evans – Licensing Team Leader
Subject/Title: Consideration of objections in relation to the proposed variation to the Hackney Carriage Table of Fares
Portfolio Holder: Cllr Les Gilbert

1.0 Report Summary

- 1.1 To determine the Table of Fares applicable in each of the Council's Hackney Carriage Zones in light of the responses received following the publication of the statutory Notices.

2.0 Recommendation

- 2.1 That the Portfolio Holder considers all the relevant information including any alternative suggestions made by objectors. The Portfolio Holder may:
- i. Consider relevant objections to the proposed Table of Fares and determine that no changes are necessary and the Table of Fares as published should become effective on 4th August 2014.
 - or
 - ii. Consider relevant objections to the proposed Table of Fares and determine that amendments to the proposal are necessary. To set out those amendments and to determined that the amended Table of Fares should become effective on 4th August 2014.
- 2.2 If the Portfolio Holder determined that significant changes to the proposals are appropriate, consideration should also be given to further publication of Notices rather than determining that the changes become effective on a nominated date. This would allow further opportunity for comment on the changes to the proposals.
- 2.3 The Portfolio Holder has the opportunity to deal with the Table of Fares in each zone separately. This would allow the Portfolio Holder to amend the proposals differently in each of the zones if this is desirable.
- ### 3.0 Reasons for Recommendations
- 3.1 In accordance with the Local Government (Functions and Responsibilities) (England) Regulation 2000, any amendment to the Table of Fares is an Executive function. The Council's Constitution makes provision for decisions of this nature to be made by the relevant Portfolio Holder.

4.0 Wards Affected

4.1 All

5.0 Local Ward Members

5.1 Not applicable

6.0 Policy Implications

6.1 None

7.0 Financial Implications

7.1 There was a requirement to advertise the variation to the fares in at least one local newspaper. As the Borough is also split into 3 sub-districts (known as zones) each fare card was individually advertised. This resulted in nine notices being placed in the press.

7.2 The Notices were also placed on the Council's website and copies placed on the notice board at the Westfields Council Offices and at the Contact Centres at the Town Hall Macclesfield and Delamere House Crewe.

8.0 Legal Implications

8.1 Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 gives the Local Authority the discretion to set the maximum fares payable in connection with the hire of a Hackney Carriage vehicle. The fares must be set out in a table referred to as the 'Table of Fares'.

8.2 Section 65 also provides that the following is required when varying a table of fares:

- i. publication of a notice setting out the variation to the table of fares (specifying the period within and manner in which objections can be made) in at least one local newspaper circulating in the district; and
- ii. deposit of the notice for the period of fourteen days at the offices of the Council (for public inspection).

8.3 If no objection to the variation is made within the relevant fourteen day period (or if all such objections are withdrawn) the variation comes into operation on the date of the expiration of the period specified in the notice (or the date of withdrawal of the last objection (if any)). If any objection is made and not withdrawn, a further date (not later than 2 months after the first specified date) shall be set on which the table of fares shall come into force with or without modifications as decided after consideration of the objections.

- 8.4 A Hackney Carriage Proprietor is permitted to charge less, but not more than the maximum set by the Licensing Authority. The case of R v Liverpool City Council ex parte Curzon Ltd (1993) has confirmed that if the proprietor is using their own version of the Table of Fares or continues to use a previous Table set by the Local Authority, the taximeter should reflect the fare being charged. There is a requirement for the Table of Fares set by the Council to be displayed in the vehicle.

9.0 Risk Management

- 9.1 Full and thorough consideration of any responses received following the publication of the Notices is necessary to provide a reasonable and appropriate decision. This would also mitigate the risk of challenge to any decision taken.

10.0 Background

- 10.1 In June 2011 the Licensing Committee instructed Officers to prepare a report providing information on the potential harmonisation of fares across the Borough.
- 10.2 Following the presentation of that report in January 2012, a decision was taken to move the Congleton and Macclesfield Zones to the Table of Fares operating in the Crewe and Nantwich zone. It was thought at this time that the Crewe and Nantwich zone Table of Fares was the more generous, but this did not take into consideration that the fares are calculated differently. It was therefore not a straight increase, as although the day rate was more generous the other rates (including evening and bank holiday's etc) were less generous than the other zones. Following publication of the statutory notices a number of objections were received and those proposals were abandoned.
- 10.3 The Licensing Committee requested that further consultation be undertaken to ascertain the views of the trade and seek to find common ground. The Licensing Team has conducted consultation with the licensed trade in the Macclesfield and Congleton zones. However, the licensed trade in the Crewe and Nantwich zone did not attend the meeting on the 27th July 2012.
- 10.4 Following the consultation and the meeting held on 27th July 2012, agreement with the Congleton and Macclesfield Zones was reached on the following:
- i. A harmonised structure based on a fixed rate for first mile or part thereof
 - ii. The subsequent mile rate to be £0.22 per 1/10th mile or part thereof
 - iii. Tariff 2 to operate from 9pm to 12am at the flag rate plus a set percentage
 - iv. Tariff 3 to operate from 12am to 7am at the flag rate plus 50%
 - v. Soiling charge to be £50.00
 - vi. Additional agreements have been reached regarding Sundays, public holidays and Christmas and the rates that are applicable

10.5 At its meeting on the 5th November 2012, the Licensing Committee considered the agreement and consensus reached and resolved the following:

- i. That the Cabinet Member for Communities and Regulatory Services be recommended to approve further consultation on the agreed structure with a flag/first mile rate of £3.50 and Tariff 2 set at the flag rate plus 20%;
- ii. That, in view of the extensive consultation that had already been undertaken, the Cabinet Member for Communities and Regulatory Services be recommended to approve a reduction in the consultation period to six weeks.

10.6 On the 7th January 2013 the Portfolio Holder considered this matter and the information presented and approved that formal consultation should be conducted in line with the 5th November 2012 recommendation from the Licensing Committee.

10.7 The Licensing Team then consulted with the licensed trade in March/April 2013 by writing to each licence holder providing a copy of the proposed variations, 1201 letters were sent prior to the consultation commencing, and by placing the proposed Table of Fares on the Council's website.

10.8 On the 28th April 2014 the results of this consultation were reported to the relevant Portfolio Holder. A decision was taken to publish Notices of the proposed Table of Fares without amendment. The report and appendices for this meeting are available on the Council's website and the decision notice is at appendix 1 with the proposed Table of Fares.

10.9 Before any Notices were placed in the newspaper, offices or website, Officers confirmed that the 'call in' period applicable with Executive decisions expired without being engaged.

10.10 Following publication of the Notices a significant number of responses commenting on the proposals have been received, including 2 petitions. The Notices allowed a 21 day period for comments to be made (the legislation requires not less than 14 days be given).

10.11 The proposals will affect each zone differently and this has influenced the content of the responses from each zone. The responses have therefore been divided into separate appendices:

- § Appendix 2 - Congleton Zone responses
- § Appendix 3 - Crewe and Nantwich Zone responses
- § Appendix 4 - Macclesfield Zone responses
- § Appendix 5 - Trade organisation responses
- § Appendix 6 - Public response
- § Appendix 7 - Petitions

10.12 The decision-maker should decide how much weight is appropriate to give the petitions received. There are also responses from two trade organisations:

1. Cheshire East Licensed Vehicle Association, which was formed in April 2014 and a list of those represented by this organisation is provided at appendix 8. Some members have also provided individual responses.
2. Cheshire East Taxi group formed on 28th May 2014. The Licensing Team does not have any information confirming who is represented by this group.

10.13 The decision-maker should carefully consider the content of the responses and should consider any alternative proposals. The proposals can be varied if it is deemed necessary.

10.14 The results of the proposed change on the zones was reported in the information presented on the 28th April 2014 and this is attached again at appendix 9. The following table gives a national and regional perspective on the effect of a Tariff 1 fare (the information is collated by PHTM magazine and is provided in the June edition):

National average flag rate	£2.72
North average flag rate	£2.44
National average one mile fare	£3.76
North average one mile fare	£3.50
Proposed flag rate	£3.50
Proposed one mile fare	£3.50

10.15 Similarly, a comparison with Cheshire West and Cheshire and 'Nearest Neighbour' Authorities, areas with similar characteristics to Cheshire East, is set out below:

Proposed CEC	£5.70
Cheshire West and Chester zones	
Chester (last rise – 2011)	£5.50
Vale Royal (last rise – 2011)	£5.25
Ellesmere Port (last rise – 2011)	£5.20
'Nearest Neighbour' Authorities	
Bath and North East Somerset (last rise – 2014)	£6.40
Central Bedfordshire (last rise – 2012)	£5.50
North Lincolnshire (last rise – 2012)	£5.40
North Somerset (last rise – 2012)	£5.70
Shropshire (last rise – 2013)	£5.50
South Gloucester (last rise – 2010)	£6.40
Swindon (last rise – 2008)	£6.10
Warrington (last rise – 2014)	£5.20

- 10.16 A number of responses from the Congleton and Macclesfield zone have commented that the increase to £3.50 is excessive and are concerned the impact this increase will have on their business.
- 10.17 In the Congleton zone the comparison table shows that any journey of one mile or less would be an increase of £0.60. This is because the flag rate and first mile rate are currently the same in this zone. The increase also becomes greater as the journey lengthens.
- 10.18 Consideration should also be given to the legal implications section, which confirms that the Licensing Authority sets the maximum charges rather than setting a fixed rate. Some commentators have raised their concerns around charging less than the maximum and the effect this may have on public perception and any unintended harm to the safety of drivers and the public that may be caused by any confusion. There are three ways that a reduction in the maximum charge can be given:
1. The hirer negotiates a lesser amount before the journey commences. This can be negotiated over the phone or at a taxi rank.
 2. The driver decides to have an alternative table of fares at an amount below the maximum set by the Licensing Authority. The driver's meter should reflect their own table of fares as required by the decision in case law set out in para 8.4. The official Table of Fares set by the Licensing Authority must be displayed in the vehicle.
 3. The driver can give on the spot discounts. An example would be where the meter read £4.50 and the driver asked that £4.00 be paid.
- 10.19 A number of Macclesfield responders have expressed their concern that the rates will increase by £0.80 on the flag rate. However, the increase at the first mile marker would be £0.20 and a two mile journey would increase by £0.40.
- 10.20 Some responses from the Crewe and Nantwich zone are critical of the proposal as it is seen as a decrease. There would be a decrease in fare for journeys of over half a mile and it would not be until a journey was over 4 miles that drivers would see an increase if the proposed Table of Fares (without amendment) were to be implemented. However, there would be an increase on the flag rate of £1.10 and an increase on a half mile journey of £0.10. Shorter and longer journeys will therefore increase and mid length journeys will decrease. A number of responders have provided information on their 'average' journey for consideration. All other tariffs would be increased.
- 10.21 Some responses from the Macclesfield zones support the changes providing waiting time is reinstated and some have provided information at what level it should be set at. Responses from other zones have also asked that waiting time be reinstated. The current waiting times in each zone are:

Congleton	£26.40 per hour (ie £0.44 per minute)
Crewe and Nantwich	£0.33 per minute or each part thereof (ie £19.80 per hour)
Macclesfield	£0.10 up to every 24.8 seconds (ie £14.52 per hour)

10.22 A number of responses raise the potential for the variation to have a disproportionately adverse impact on some people with characteristics that are protected under section 149 of the Equality Act 2010. Some protected characteristics are specifically referred to in the objections, such as disability and age etc. The Council's duty under Section 149 is to have due regard to the matters set out in relation to equalities when considering and making decisions. This would include decisions on the maximum fares that may be charged for journeys in hackney carriages.

10.23 In 2003 the Office for Fair Trading conducted a market study titled 'The regulation of licensed taxi and PHV services in the UK'. Pages 60 to 72 dealt with the regulation of fares and provides informative detail that may assist the decision-maker. This report is attached at appendix 10. The section on fares clearly states that Councils should be encouraged to set the maximum fare and to encourage a competitive market under that maximum. It also confirmed that for taxi drivers to work the fares need to be set at a level that allows them to earn a sufficient amount. The report also makes the case that increasing fares, increases provision.

10.24 The Best Practice Guidance produced by the Department for Transport on Taxi and Private Hire licensing (March 2010) is attached at appendix 11. The setting of fares is dealt with at para 52 – 54.

10.25 Also provide at appendix 12 is a timeline of events that have taken place, summarising the consultations and meetings, in relation to this matter.

11.0 Summary

11.1 Taxis play a vital role in ensuring our night-time economy is safe by making sure patrons to licensed premises leave a town centre quickly and efficiently and arrive home safely. Similarly, in areas where there is reduced public transport provision, taxis can fill this gap ensuring those who need to attend their GP practice or do their weekly shop are able to do so.

11.2 The proposed 'mid-evening rate' had been included because some members of the trade suggested that a stepped increase to the night-time rate would benefit the public, ie there would not be such a large increase from the day to night tariffs. It was felt that drivers who are working unsociable hours and dealing with members of the public, who may have enjoyed the evening economy, should be able to charge a greater amount than the day rate.

11.3 The table of fares should be set to enable:

- § Sustainable income for drivers. It is therefore important that the public and trade recognise that the Council sets the maximum fares payable rather than a fixed rate.
- § Future investment in vehicles to ensure they remain safe and suitable for use as a working vehicle
- § Clear and simple maximum charges that minimise the opportunity for overcharging or confusion

11.4 It should also be borne in mind that the Council has no power set the fees in relation to private hire vehicles. This type of hiring should be negotiated when the journey is booked. In respect of these fares, the market finds its own level. Similar, the Table of Fares set by this Authority would not be applicable to any vehicles licensed by other Local Authorities, but working in the Borough. In those instances the driver can charge as much or as little as the customer agrees to.

11.5 Following any amendments to the Table of Fares the meters in licensed vehicle may need to be recalibrated. Either to the Council set maximum or to the drivers own Table of Fares. The cost of this process would fall to the proprietor of the vehicle and can vary depending on the type of meter used and the company carrying out the change. However, the cost would be in the region of £25.00 per change.

11.6 Currently, the Council has two appointed testing station that carry out our vehicle test. These test include testing that meter does not exceed the set maximum. As a result of the Table of Fares being different in each zone, the Congleton and Crewe & Nantwich zones have their tests conducted in Crewe and the Macclesfield zoned vehicles are tested in Macclesfield. If the Table of Fares were to be set the same in each zone vehicles could be tested at either Testing Station. This would alleviate any booking pressures at peak times and give the option to wait or have an earlier test.

12.0 Access to Information

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

Name: Miss Kim Evans

Designation: Licensing Team Leader

Tel No: 0300 123 5015

Email: kim.evans@cheshireeast.gov.uk