

Guildford Borough Council
Hackney Carriage Fare Review 2018
Objection Recived to Advertised Fares

The Council adopted a taxi fare calculator in 2013. This is used to calculate fares based on the cost of running a taxi and takes into account relevant elements in this.

We consulted with all the trade between asking for information on running costs prior to using the calculator to set new fares. We asked over 200 drivers and operators and received 10 responses. Using this information we amended the calculator and we then consulted upon these.

The following table sets out the objection received and the response to these.

Objection received and consideration given

Consideration of Objection Received on 4 May 2018 at 16:00 hours from Mark Rostron
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<p>1. Summary Faults with the proposed fare chart</p> <ul style="list-style-type: none"> a) Based on the false assumption that all trips are 2.5 miles. b) Perpetuates the flawed AA cost base c) Perpetuates the fraud in the genesis of the formula d) On its face states that the rate per mile is £1.20 less than the cost per mile. e) Based on an uncandid report made by Licensing Officers and the Lead Councillor in 2015. f) Imposes unnecessary costs of livery and BTEC on the Public and Taxi driver. g) The proposed method of updating costs using a percentage increase is precisely what the Council rejected in the first place in 2015. The whole point of the formula was to use actual costs, not arbitrarily indexed costs. Going back to the percentage increase method means the Council have wasted the costs incurred by all parties and the Public in the last three years dispute over the adoption of a policy based on the attempt to ascertain the true costs of taxis in Guildford. 	
<p>2. The existing current fare chart</p> <p>The current fare chart is the subject of a Judicial Review application which has been appealed to the Court of Appeal. It is objected to by drivers as it will not cover their costs and not provide them with the target income set by the Council's policy.</p>	<p>The current fare chart was subject to a judicial review in 2016. The appeal was dismissed by the High Court with the subsequent introduction of the fare chart. Whilst the appellant has requested permission to appeal from the Court of Appeal, this is yet to be determined.</p> <p>A new fare chart was advertised on 20 April and consulted upon. It is this chart which is subject of consultation. No other objections have been received.</p>
<p>3. Fraud</p> <p>The Council is using a fare calculation spreadsheet that was adopted as a result of two frauds.</p>	<p>No Fraud has been committed by the Council.</p>

Fraud as to origin

Firstly it was wrongly said that it was newly developed for Guildford in 2012 by David Curtis-Botting, when it appears to have been developed by David Curtis-Botting or another Isle of Wight Council employee, for the Isle of Wight in 2007.

The adopted methodology was the mistaken result of a fraudulent consultation and decision process by the Council and its' Officers, in that the methodology was not based on the "London model" and was not developed in the period 2011-2013 but had already been written and used by the Isle of Wight Council.

Fraud as to content

Secondly it was claimed that it was based on the London model when that was not in fact the case.

The spreadsheet and formula were written for the Isle of Wight Council and obtained probably without permission from them by David Curtis-Botting.

It appears that the initial reluctance to amend the HC Calculator for the purposes of setting fares in Guildford was because it had already been completed before any consultation in Guildford in 2012 and was designed for a small borough like the Isle of Wight where there was no need for the Booking Fee or the ATI.

The Council claimed:

3.4 In light of the clarified responsibility for setting fares, the Licensing Committee has taken the lead in developing a methodology for the Executive to approve.

3.5 Officers considered that the established model used to calculate London taxi fares was a reasonable starting point and this was adapted to make it appropriate to the local market. At the heart are the assumptions and allowances relevant to running a taxi in Guildford. These have a direct impact on the fares that drivers can charge the public and therefore how much they can earn.

The underlined part of the claims were false and designed to deceive the taxi driver consultees.

At § 4.25, in the original report proposing the adoption of the new methodology the importance of using accurate data about the costs of motoring was stressed:

“it is important to ensure the right costs are used to enable drivers to cover their costs in providing the service; however, not to such a level where fares are in excess of costs with the result that the travelling public are overcharged for the service”.

Although the Guildford methodology was supposed to follow the London model the results of the calculation have differed materially from the London model because the data used is flawed in that it does not use the same data as the “London model”.

The irrationality in the present decision arises from an improper starting choice of variables inputted into the calculation pursuant to the methodology. The Council has chosen irrationally to use inappropriate and outdated data, with arbitrary adjustments that will not provide a reasonable estimation of the costs faced by taxi drivers in the Guildford area.

The Council’s irrational position is that:

Any increase in number of taxis increases the number of miles used under the calculator

Clearly increasing the number of taxis does not of itself increase the number of miles taxis are hired for.

4. Illegality

Legislative and Regulatory Reform Act 2006 and the Regulators Code 2014

The costs of livery and driver training are due to policies that are not justified by any adequate or proper reasons to be necessities and, therefore not enforceable under the ONLY Statute that governs taxi license conditions, section 47 of the Local Government

The cost of livery and BTEC policy are legally adopted policies of the Council. It is only fair on the trade that they can recover the costs associated with obtaining a licence through the income they receive. Objecting to the fares is not a route to challenge these policies or the justified recovery of these associated costs.

The setting of taxi fares falls under s.65 of the Local

Miscellaneous Provisions Act 1976. The Council have NO other Statutory authority to impose these conditions and costs on the licencees.
The Council have not had regard to the Legislative and Regulatory Reform Act 2006 or the Regulators Code of 2014 when setting the fares and setting the policy for the fares or imposing the costs of policies imposed on taxi drivers.

Regulators' Code

*This Code was laid before Parliament in accordance with section 23 of the Legislative and Regulatory Reform Act 2006 ("the Act"). Regulators whose functions are specified by order under section 24(2) of the Act **must have regard to the Code when developing policies and operational procedures that guide their regulatory activities. Regulators must equally have regard to the Code when setting standards** or giving guidance which will guide the regulatory activities of other regulators. If a regulator concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, the regulator is not bound to follow that provision, but should record that decision and the reasons for it.*

*1.1 **Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.***

*1.2 When designing and reviewing policies, operational procedures and practices, regulators should consider how they might **support or enable economic growth** for compliant businesses and other regulated entities, for example, by considering how they can best:*

understand and minimise negative economic impacts of their regulatory

Government (Miscellaneous Provisions) Act 1976 and the Council aims to transparently and fairly set a cost which allows the taxi trade to cover their costs against what is reasonable for the public to pay for the service in line with the Regulators Code.

activities;

- minimising the costs of compliance for those they regulate;*
- improve confidence in compliance for those they regulate, by providing greater certainty; and*
- encourage and promote compliance.*

1.3 Regulators should ensure that their officers have the necessary knowledge and skills to

support those they regulate, including having an understanding of those they regulate

that enables them to choose proportionate and effective approaches.

1.4 Regulators should ensure that their officers understand the statutory principles of good

regulation and of this Code, and how the regulator delivers its activities in accordance

with them.

2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views

3. Regulators should base their regulatory activities on risk

3.1 Regulators should take an evidence based approach to determining the priority risks in

their area of responsibility, and should allocate resources where they would be most

effective in addressing those priority risks.

3.2 Regulators should consider risk at every stage of their decision-making processes,

including choosing the most appropriate type of intervention or way of working with

those regulated; targeting checks on compliance; and when taking enforcement action.

3.3 Regulators designing a risk assessment framework, for their own use or for use by

others, should have mechanisms in place to consult on the design with those affected,

and to review it regularly.

3.4 Regulators, in making their assessment of risk, should recognise the

compliance

record of those they regulate, including using earned recognition approaches and should consider all available and relevant data on compliance, including evidence of relevant external verification.

3.5 Regulators should review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.

Monitoring the effectiveness of the Regulators' Code

The Government is committed to making sure the Regulators' Code is effective. To make sure that the Code is being used effectively, we want businesses, regulated bodies and citizens to challenge regulators who they believe are not acting in accordance with their published policies and standards. It is in the wider public interest that regulators are transparent and proportionate in their approaches to regulation.

The Government will monitor published policies and standards of regulators subject to the Regulators' Code, and will challenge regulators where there is evidence that policies and standards are not in line with the Code or are not followed.

Duty of candour

The Council and Officers have breached their duty of candour to the High Court and to the Public to give a full and honest report of the options, risks, reasons and duties when setting the fares and imposing the costs of their policies.

No such conduct has taken place. No evidence has been provided to support these allegations. The High Court has found comprehensively in the Councils favour against the objector. To suggest otherwise is vexatious.

5. Particular objections

Rate per mile doesn't cover costs

In preparing a table of fares any rational decision maker would work out the cost per mile of running a taxi and paying the driver, and set the metered rate to charge that amount to the customers.

The Councils instead, without reason or justification chose to reduce the rate per mile after the first 176 yards to £2.00, £1.20 per mile below the sustainable level.

The Councils have front loaded the charging structure so that the first mile costs £4.80 and the further rate per mile of only £2.00 for every subsequent mile recovers £1.20 less than the £3.20 Councils' estimate of the cost of running and driving the taxi.

In an analogy with a fee earning profession for example, if their hourly rate were £320 to cover the cost of their business and their income, then mirroring the Councils irrational system they would front load the first hours charge at £480 and charge each subsequent hour at £200. Obviously, none of the fee earners would want jobs which lasted more than an hour as they would lose £120 for each further hour. Yet this is exactly what is being proposed by the Councils for Guildford taxi drivers.

The Council's calculation divides the total cost of operation, minus the pull off value of the number of trips, and divides the remainder by the number of trips, assuming that all trips are 2.5 miles in distance.

That calculation is inappropriate for the large number of trips that are longer than 2.5 miles. Rate per mile set in this way are unreasonably low for longer trips, and will result in passengers tending to be unable to get taxis for longer distances.

It was open to the Councils to simply and rationally adjust the rate per mile for longer trips with an Automatic Tariff Increase (ATI) for trips over 2.5 miles, to cover the taxi running costs and the drivers' income after the first 2.5 miles, but they never considered it.

Fuel miles per gallon

The Council unreasonably and without any evidence assumes a 50 miles per gallon fuel consumption rate for taxis, making the fuel cost unreasonably low.

The fare calculator methodology adopted in 2013 weights the first mile allowing drivers to recover their costs over the average number of journeys. This method has been used since 2013 and this is the first objection to the use of this method. The use of this 'flag drop' has been common amongst most local authorities when setting taxi fares.

The 2.5 mile average distance figure has been derived from previous consultation with the taxi trade and has not been used in the setting of taxi fares since 2013. No comments to this figure were received during informal consultation, and the objection does not provide any evidenced other figure.

The Council has not used an ATI for a number of years and this is the only comment requesting it. In addition to the weighted first mile, use of an ATI would mean that customers were charged at a higher rate.

The cost of fuel are derived from the most up to date AA figures, over the number of miles completed.

Dead mileage

Further the Councils have irrationally chosen a figure of 45% for the dead mileage, whereas evidence shows that dead mileage is at least 50%. This error puts further costs on drivers. The dead mileage calculation is unreasonably based on no evidence when such evidence could and has since been obtained from a survey of the drivers.

Council Officers have falsely claimed that the 45% was an audited figure. The actual audit review is attached.

Cost of vehicle

There has inexplicably been no change in the assumed cost new of a taxi.

Depreciation

The AA provide unreasonably low private owner annual mileage depreciation costs.

Parts and servicing

Service labour costs and replacement parts are unreasonably based on the private use and low mileage of newer vehicles.

AA data is not for taxis

It is an unreasonable policy choice to continue using the AA data as the AA permanently stopped providing it in 2014.

The cost of a new vehicle in 2018 unreasonably simply copied and pasted from the 2014 AA document.

The out of date 2014 AA running costs for the nearly new vehicles doing low annual mileage is used unreasonably instead of those higher costs for the much higher mileage older Guildford taxi fleet.

The Council admitted in 2016 that they had no idea of the true cost of running a taxi in Guildford.

The use of a figure of 45% for dead mileage was derived from previous consultation with the trade which indicated a figure of between 33% and 50% for dead mileage. This is on the basis as outlined in the calculation values that taxi can receive hails and bookings in between taking customers from A to B and returning back to point A. Five responses to the figure were received during the pre-consultation which gave figures of 50-60, 55, 55, 65 and 65-70. No supporting evidence for these figures was submitted. The evidence provided in appendix 1 of the objection appears to be a survey of drivers receiving a flag down. This is not a comprehensive mileage record which would demonstrate what a drivers actual dead mileage rate is.

The objection does not agree with the use of the AA data and figures, however no alternative evidence as to what the vehicle cost, value of depreciation and cost of parts and servicing have been provided. These costs were subject of a pre-consultation with the trade where no further evidence was provided.

The use of AA data is specified in the methodology and provides a general guide for the running cost of a vehicle. The data has been adjusted for inflation since its last publication and as such it is not unreasonable to continue its use, especially when no evidence has been provided by the trade. The use of AA data was considered in detail during the judicial review with the High Court supporting the

On the basis that the consultation was intended to seek views from the trade on their true costs of running a taxi, the level of responses was disappointing. (Please see para5.5 page 51 of the Councils bundle)

- 4.25 Both sets of data are from reliable sources, although with such differences between cost information it is important to ensure the right costs are used to enable drivers to cover their costs in providing the service; however, not to such a level where fares are in excess of costs with the result that the travelling public are overcharged for the service.

The Council has adopted most of the variables from a document entitled ‘Motoring Costs 2014’ published by the Automobile Association on 7 July 2014

The Council has made no attempt to enquire of the AA as to the suitability of its data for taxi fare calculations.

Their own comparison of the effect of choosing AA cost data as opposed to TfL cost data showed the artificial depression of the notional cost of running a taxi. A summary of the effects of the differences is attached. The relative differences will not have changed.

The adherence to the adopted methodology requires the faithful use of accurate data, so as to provide as realistic an estimate as possible.

Actively to adopt demonstrably inaccurate and outdated AA information, to the exclusion of more accurate and up-to-date data obtainable from TfL, is to infect the draft table with an unsustainable and irrational basis.

“Our running cost tables are a general guide to the different factors that go together to make up the overall cost of running a privately owned petrol or diesel car.

AA running costs tables have no official status and are not intended to be used as the basis for setting mileage rates for business use of private cars.

Approved mileage rates are set by HMRC and reviewed from time to time.

Council’s view.

Guildford has a mixture of saloon and purpose built wheelchair accessible vehicles in the licensed taxi fleet and generally values of these vehicles when new fall between brackets (£22,000 to £26,000 and £26,000 to £36,000). Running costs vary considerably between each bracket and therefore the higher figure has been used to reflect the vehicles being used as taxis rather than purely for domestic use. The use of TfL figures are not considered appropriate as these relate to running London style cabs in London. There are only 4 London cabs in the Guildford licensed fleet.

The AA tables are based on the costs of running a four year old car. Actual running costs will vary by individual depending on car choice, age, type of use and driving style.

It was open to the Councils to enquire of the AA whether the AA data from 2014 was suitable for inclusion in a calculation of the proposed table of fares in 2018, but they failed to do so. That was negligent of the Council and no rational Council would base a calculation on data of unknown suitability.

Furthermore, the following comment was made by the Council in the report regarding publicly available data from the Automobile Association ('the AA'):

- a. *“The approved fare methodology uses data from the AA to give a general guide to the costs associated with running a vehicle. These figures are then input into the methodology with other figures associated with running a taxi to calculate the fares [...] It is worth noting that the figures for the AA were produced in March 2015 and the figures for TfL in October 2015, so neither can be considered fully up to date.”*

It is untrue that the file was produced in March 2015 as file was last date and time stamped on 12th May 2014)

Furthermore, the AA data provides an estimate of the running costs of a private motorist with a 4 year old vehicle having done a low annual mileage, making no attempt to estimate the costs of running a taxi, which would typically be an older vehicle, (76% over 4 years old according to the Councils own 2016 figures), involve higher mileage, more rapid depreciation, higher servicing costs, higher insurance premiums, and other additional costs compared to a private motorist.

The AA data is a source of consumer information about the cost of private car ownership. It is a manifestly inappropriate source of information about the costs faced by the taxi trade in Guildford. The Councils admit that they have no evidence based data about the costs associated with running a taxi, and therefore as a whole the calculation is irrational.

It is irrational to continue with the inappropriate AA data for reasons of consistency or to

ensure that fares don't increase. The purpose of the exercise is to produce a table of fares that reflects the true cost of running a taxi and not to cherry pick data with the intention of producing an unfair low table of fares.

Alternatively, the data does not bear the weight that has been placed upon it by the Council, in that it falls well short of a reasonably accurate estimate of the costs of (i) running a taxi (ii) in 2016.

No reliable data

The AA data is not reliable. It was not collected by the AA. It is believed that they bought the data in from an outside market research company. The data has no provenance. The AA is a breakdown recovery company not a taxi running cost data company.

The Council's survey of drivers' data have produced statistically insignificant results and as a result the Council had no reliable local data on which to base their calculation.

40 hour week is part of the average wage

It is unreasonable to assume that drivers should work 365 days a year to produce the mileage used to calculate the income stated in the policy objective.

Long hours mean public safety is at risk

The assumption that the drivers can earn the average income for Guildford in a 40 hour week is without basis in fact. Drivers have to work much longer to drive the mileage on which the calculation is based.

The Council have not attempted to gauge the risk to the public of forcing the drivers to work long hours to achieve a reasonable income. See Regulators Code 2014.

The AA data has been adjusted for inflation. In the absence of any data forthcoming from the trade either during the pre-consultation questionnaire or objection period it is not unreasonable to use this as a general guide.

The calculator sets fares over the number of mileage. The hours cannot be considered.

6. General objections

Irrationality

The Council has irrationally used cost data that is materially lower than the real cost. The effect of that is to reduce drivers' real income.

The Council has adopted a fare policy to provide the average taxi driver with an income of £30,796.50, whilst at the same time providing by another policy for unlimited increases in taxi drivers numbers to maintain a service level such that taxi customers never have to wait for a taxi, even at peak times.

Clearly and perversely (as more drivers are attracted, and the taxi work is divided over time amongst more drivers) the fares calculated by the formula will need to perpetually increase to meet the income target set by the Councils policy. That combination of policies acts against the public interest in providing a reasonable taxi service at a reasonable cost. The combination of policies results in passengers paying higher fares to maintain drivers who are standing idle for large periods of time.

Lack of proper consultation

The Guildford Hackney Association of over 100 hackney carriage driver (or nearly half of the total) was not officially represented at any TAG meeting or during the consultation as it had no confidence in the honesty or candour of Guildford Borough Council licencing officers in reporting to and recording the meetings, and further that the meetings were chaired by a partial, and paid retaineer of the Council.

Fraud

The Council did not decide honestly and in good faith when it chose which data to include on the basis of which choice would produce the lower fares, and not to meet the policy objective of covering the cost of running a taxi. The Council made a large number of untrue or misleading statements to obtain the fare calculator policy and judgement in the High Court.

Public interest

The Council has acted against the public interest by adopting a table of fares which would discourage taxi drivers from taking passengers over distance further than two miles, and by imposing the unnecessary costs of livery and BTEC training.

The aim of the calculator is to allow drivers to earn the average salary for Guildford and recover their costs over the average number of miles completed. This is not irrational.

The number of licensed taxis has decreased considerably over the past 3 years from nearly 200 in 2016 to 144 currently. As such the evidence that there has been an unlimited increase in taxi numbers is contrary to the statement in the objection.

All members of the taxi trade, whether represented by the GHA or not had the opportunity to attend the TAG meeting on 19 February and participate in the pre-consultation questionnaire during the month of February. Most had the opportunity but did not respond/attend. Two members of the GHA attended the TAG meeting. Furthermore all members of the trade had to opportunity to make objections during the statutory consultation period. Only one objection was received.

No fraud has been committed.

The Council is acting in the public interests by transparently setting fares that allow drivers to recover their costs and earn the average salary over

The faulty calculation ultimately puts the Public at risk due to unreasonable pressure to earn a sustainable income.	the average number of miles.