

Licensing Committee Report

Wards affected: All

Report of Head of Health and Community Care Services

Author: Mike Smith

Tel: 01483 444387

Email: mike.smith@guildford.gov.uk

Lead Councillor responsible: Graham Ellwood

Tel: 07899 846626

Email: graham.ellwood@guildford.gov.uk

Date: 25 March 2019

Objections to the Taxi and Private Hire Fees and Charges 2019/20

Executive Summary

On 7 January 2019, the Licensing Committee approved the proposed taxi and private hire fees and charges for the financial year 2019/20. A notice was published in the *Surrey Advertiser* advertising the fees and charges and confirming they would take effect from the end of the consultation period. Two objections were received, although one has been withdrawn. Therefore, the advertised fees and charges cannot come into effect until the remaining objection has been considered.

This report details the fee setting process for the taxi and private hire fees and charges for 2019/20 and the objections to the advertised fees. The Licensing Committee must consider the objections; approve the taxi and private hire fees and charges for 2019/20 with or without modification and set a date for implementation, which must be no later than 15 April 2019, as is required by legislation.

Recommendation to Licensing Committee

That the Taxi and Private Hire Fees and Charges for 2019/20, as set out in Appendix 1 to this report, be approved with effect from 1 April 2019.

Reason for Recommendation:

The Council is entitled to set the fees and charges for taxi and private hire licences in order to recover its reasonable costs.

1. Purpose of Report

- 1.1 To enable the Licensing Committee to consider the objections received to the taxi and private hire fees and charges for 2019/20 and to set a date for the fees and charges to come into force with or without modification by no later than 15 May 2019.

2. Strategic Priorities

- 2.1 The process of setting taxi and private hire fees and charges will contribute to our fundamental themes and priorities as follows:

Economy: to grow a sustainable economy that will support all aspects of life in our borough.

Your Council: ensuring long-term financial stability and sound financial governance.

3. Background

- 3.1 Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 (“the Act”) allow the Council to charge fees for the grant of licences in respect of hackney carriage and private hire drivers, vehicles and operators. The legislation specifies the elements that can be included in the cost of the licence fee.
- 3.2 The cost of issue and administration can be recovered in drivers’ licence fees. In respect of vehicle and operator licences, the reasonable cost of inspecting vehicles, providing hackney carriage stands and any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles can be included in the fees.
- 3.3 The costs of enforcement against unlicensed drivers, operators or unlicensed vehicles cannot be included in the calculation. The Council cannot make a profit from licence fees and there must be a carry forward of any surplus. There can also be recovery of any deficit. The reconciliation of any surplus and deficit is over a three-year cycle.
- 3.4 The taxi and private hire fees and charges methodology approved on 14 September 2016 has been applied in the production of the 2019/20 fees as detailed in the report to Licensing Committee on 7 January 2019.
- 3.5 Following approval by Licensing Committee on 7 January 2019 and as required by Section 70 of the Act, a notice was published in a local newspaper, the Surrey Advertiser, advertising the fees and charges and confirming the date on which they would take effect together with the objection process. Details of the proposed fees, together with information about consultation were also sent out to the licensed trade at the end of January in the taxi and private hire newsletter.

4. Objection to the 2019/20 Fees and Charges

- 4.1 On the 12 February 2019 an objection was received from Mr Arshad, a Private Hire Operator stating:

“Dear Sir/ Madam

I have an objection to the increase of operators licence fee

The cost can't go up by 100%
Inflation hasn't gone up by that much.
If we increased our prices like yourself we would be out of business
You are passing 90% of your costs on to private hire operators
As a whole this is unacceptable increase it is not justified in any way of form

Best Regards
Ish Arshad"

- 4.2 Officers engaged in dialogue with Mr Arshad, providing information about the fee setting process on the 13 February. Officers invited Mr Arshad to withdraw the objection on the grounds that:
- the objection did not contain any detail for the Licensing Committee to consider;
 - the proposed fees and charges had been calculated using an approved, transparent methodology; and
 - the cost of a Private Hire Operator fee should be met by the businesses themselves, and not Council Tax Payers.
- 4.3 Officers also met with Mr Arshad on 27 February to explain the fee setting process. Following this meeting, this objection was subsequently withdrawn.
- 4.4 On the 15 February 2019 an objection was received from Mr and Mrs Simmonds, who are Hackney Carriage Drivers, Vehicle Proprietors and also hold an Operator's Licence, stating that:

For all fees, the itemised Supplies and Services costs have not been made available for checking so there is no way an outside person can see that the costs are properly charged, but as they are based on a history where there were more licencees, they are now likely to be unreasonable.

For all fees, the Supplies and Services costs appear to be round figure estimates,

For all fees, the times charged for licences is excessive.

For all fees, the times for tasks are not checked by any time and motion study of the type that has been attempted by the Council in the past.

For all fees, the Council have claimed that these fees have been internally audited but there is no evidence that the time or the Supplies and Services costs allocated to different licence fees has been audited.

For all fees, a justification for the increased fees made by Officers is that the fixed costs are divided among fewer licencees. That is not a sustainable argument as there are few if any of these licence costs that do not vary in proportion to the number of licences issued.

For the operators fees, the level set is unreasonable. Previously licences were graded by how many cars an operator would be using. The decision to change this and then charge the smaller operators the same charge is unfair and not reasonable, because the costs must to some extent be proportional to the number of vehicles operated. In the current financial climate we are struggling along with many others to make a living, we are being told by licensing (at the T.A.G meetings) that we need to compete etc with the likes of Uber, and then this is another obstacle being put in our way.

The Operator fee is based on the cost of the operators license in the past when applications and issues were made every three years. Clearly those costs will be less if they are spread over a five year period, but the Councils calculation does not reflect that and is unreasonable.

For all driver and vehicle licences, to the extent that the numbers of vehicles licenced by the Council has decreased, much of the decrease is due to the Council introducing costly regulations that are not necessary and are therefor not reasonable.

*Kind Regards
Nikki and Mick
Micks Taxis"*

- 4.5 Before the objection from Mr and Mrs Simmonds had been submitted, Officers had provided information, copies of calculations, and answered questions from Mr and Mrs Simmonds over the fee setting process.
- 4.6 Officers engaged in dialogue with Mr and Mrs Simmonds, providing further information on the 15 February. Officers also invited the objection be withdrawn on the grounds that:
 - The proposed Operator cost is calculated by taking the costs associated with the operator function over 5 years, divided by the total number of operators currently. As such if each of the 61 currently licensed operators paid this fee for a 5 year licence, then the Council would cover its costs over the 5 year licence period.
 - The Supplies and Services were provided. For driver and vehicle licences, the budgeted figures are used and any surplus or deficit brought forward in the rolling programme. For operator licences, three years of known support

costs (2016/17 to 2018/19), together with budgeted costs for 2019/20 have been used to calculate the proposed fee.

- Officer time spent on each of the Council's licensing functions is recorded every minute of the day so that costs can be calculated transparently and fairly based upon the time spent.
- The fees and charges have been audited internally, as per the methodology.
- The Councils 'support costs', relate in part to Office, IT, Accountancy, Legal, HR recharges. These costs are divided over the number of licences issued the previous year for the calculation of the fee.
- The 'sliding' Operators fee has not been charged for a couple of years following advice on the methodology. The driver and vehicle licence fee is included as a cost in the taxi fare calculator allowing the trade to recover this cost. Operators can set their own fees for journeys to recover their costs.
- The Council is entitled to recover the cost of setting Policy under the licence fee. None of the Council's requirements are unnecessary. In fact, the Council has already introduced most of the measures, which the Department for Transport is currently consulting upon in its updated Guidance to promote Safeguarding.

4.7 In addition, in its calculations for the 2019/20 fees, a considerable amount of temporary staff time has been removed and not passed onto the licensed trade through the fees.

4.8 The above objection from Mr and Mrs Simmonds must be considered by the Licensing Committee, as the objection has not been withdrawn.

5. Equality and Diversity Implications

5.1 There are no equality and diversity implications arising from the taxi and private hire fees and charges.

6. Financial Implications

6.1 The Council's process for setting the taxi and private hire fees and charges has undergone a number of reviews and audits in previous years, which has led to improvements and modifications.

6.2 The 2008-09 and 2013-14 Accounts were challenged by the Guildford Hackney Association and the investigation into the 2013-14 objection concluded that there was no evidence that the Council had deliberately sought to overstate the costs of its taxi licensing service or charged fees that were unreasonable.

6.3 External auditors reviewed the audits for 2009-10, 2010-11 and 2012-13 and were satisfied that the recommendations from each report were met. In 2014, a further review by internal audit of the 2013-14 fee setting process made further recommendations, culminating in the development and approval of a transparent methodology to calculate fees and charges.

6.4 Appendix 2 sets out the methodology used to calculate the taxi and private hire fees and charges for 2019/20. This method was originally approved in

September 2016, and modified by Licensing Committee in January 2019 to account for a different way of calculating the Private Hire Operator Fee.

6.5 The Council cannot make a profit and must carry forward any surplus. Any deficit is carried forward and will be recovered in subsequent years. Surpluses or deficits will be considered when fee setting in future years with the objective of recovering or refunding any surplus or deficit over a three year cycle.

6.6 When considering the fee setting process, it may be useful to note the comments of the District Auditor in 2010 confirming that fee setting is not an exact science:

“The legislation does not, in my view, require councils to make a precise calculation so as to arrive at an income which exactly meets the cost of the administration of the various licences. Councils are required, however, to take a reasonable approach and should aim to set a fee that is sufficient to cover the cost but not make a surplus.”

7. Legal Implications

7.1 The Local Government (Miscellaneous Provisions) Act 1976 allows the Council to charge for the grant of licences in respect of hackney carriage and private hire drivers, vehicles and operators. The fees must be set at a level which ensures that the Council does not make a profit.

7.2 Section 53(2) of the Act states, in relation to drivers’ licences for hackney carriage and private hire vehicles:

“Notwithstanding the provisions of the Act of 1847, 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 of a private hire vehicle in any case in which they think it appropriate to do so.”

7.3 Section 70 of the Act states, in relation to vehicle and operators’ licences:

“(1) 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 may be 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 the 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 with the control and supervision of hackney carriages and private hire vehicles.”

7.4 Under Section 70 of the Act the Council has to publish a notice of the proposed new fees and charges for vehicle and operators' licences, if it determines that the maximum fees last advertised should be varied. If objections are received and not withdrawn, the Council must consider them and set a date, no more than two months after the date specified in the notice, on which the variation shall come into force with or without modifications.

7.5 There is no requirement under Section 53(2) of the Act for driver licence fees to be advertised. However, the same procedure as for vehicles and operators is adopted for good practice. A notice of proposed fees has been published, objections have been invited and the Licensing Committee is invited to consider the objection in the same way.

8. Human Resource Implications

8.1 There are no additional human resource implications because of the taxi and private hire fees and charges.

9. Summary of Options

9.1 The Licensing Committee has to approve a set of taxi and private hire fees and charges for 2019/20 and set a date for them to take effect, which must be no later than 15 April 2019.

9.2 The Licensing Committee is asked to consider the objection received and not withdrawn, approve the taxi and private hire fees and charges for 2019/20, with or without modification, and set the date for their implementation.

9.3 There are two options available after considering the objections and the information in this report:

1. Approve the fees and charges as set out in Appendix 1; or
2. Approve a modified set of fees.

9.4 Officers consider that the fees and charges set out in Option 1 are correct and justifiable and we recommend them for approval from 1 April 2019, as these charges recover the costs the Council incurs and can legally recover for administering and issuing licences.

10. Conclusion

10.1 The Licensing Committee must consider the objection to the advertised taxi and private hire fees and charges for 2019/20. The Committee must then agree the taxi and private hire fees and charges for 2019/20 and set a commencement date.

10.2 The fees and charges set out in Appendix 1 are recommended for approval. These fees recover the majority of the Council's costs. It is recommended that these fees and charges take effect from 1 April 2019.

11. Background Papers

[Minutes of Licensing Committee 14 September 2016](#)

[Report and Minutes of Licensing Committee 7 January 2019](#)

[Local Government \(Miscellaneous Provisions\) Act 1976](#)

12. Appendices

Appendix 1: Taxi and Private Hire Fees and Charges 2019/20

Appendix 2: Taxi and Private Hire Fees and Charges Methodology

13. Consultation

Service	Sign off date
Regulatory Services Manager	<i>26 February 2019</i>
Finance / 151 Officer	
Legal / Governance	<i>26 February 2019</i>
HR	<i>20 February 2019</i>
Equalities	<i>20 February 2019</i>
Lead Councillor	<i>1 March 2019</i>
CMT	<i>26 February 2019</i>
Committee Services	