

Bolsover District Council

General Licensing Committee
on 3rd October 2024

Review of the Council's Taxi Licensing Fees under the Local Government
(Miscellaneous Provisions) Act 1976

Report of the Joint Assistant Director for Environmental Health

Classification	This report is Public
Report By	<i>Lindsey Delamore, Licensing and Enforcement Officer</i> <i>Charmaine Terry, Environmental Health Team</i> <i>Manager (Licensing)</i>

PURPOSE/SUMMARY OF REPORT

To review the licence fees for Hackney Carriage and Private Hire Vehicles, Drivers, and Operators.

REPORT DETAILS

1. Background

- 1.1 Bolsover District Council is responsible for the licensing and regulation of Hackney Carriage and Private Hire Vehicles, Drivers, and Operators under the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847.
- 1.2 Under s.53 and s.70 of the Local Government (Miscellaneous Provisions) Act 1976 ('the Act'), Local Authorities are permitted to set licence fees in respect of Hackney Carriage and Private Hire Vehicles, Drivers, and Operators.
- 1.3 The Act only permits the Council to make a charge for the administration and supervision of licences at the point of the grant of a licence and does not make provision for additional charges during the currency of a licence. For example, to cover the cost of a replacement licence. However, under s.93 of the Local Government Act 2003 ('the LG Act') the Council is permitted to make a charge for discretionary services. Where a charge is not permitted under the Act a discretionary services charge has been included in line with the provisions of the LG Act.
- 1.4 In line with regulation 2(6) of the Local Authority (Functions and Responsibilities) (England) Regulations 2000, fee setting for taxi licensing is a non-Executive function of the Council and decisions are to be taken by the General Licensing Committee.

- 1.5 The Local Government Association (LGA) sets out what can and cannot be included when setting fees. A copy of the guidance can be found at <https://www.local.gov.uk/publications/lga-guidance-locally-set-licensing-fees>. Whilst this guidance does set out a methodology for the review of licensing fees, the guidance does not take account of specific statutory restrictions applicable to taxi licensing and has therefore been used as a starting point only.
- 1.6 Any fee in relation to taxi licensing must only recover reasonable costs associated with the administration and supervision of licences and cannot generate a profit to cross subsidise other areas of licensing or the Council. Any shortfall in revenue, if not met by licence fee payers, must be borne by the Council as a whole. In practice, this means that the costs of the Service should be covered entirely by taxi licensing fee income.
- 1.7 In recent years, case law has provided clarity on what costs can be recovered as part of the taxi licensing regime. R (app Rehman) v Wakefield City Council [2020] R.T.R. 11 (2019), provided clarification that the costs of enforcement and compliance can be recovered against driver fees; and R (Cummings) v Cardiff [2014] confirmed that charges within a licensing regime for different categories of licence should be accounted entirely separately and should not subsidise each other. This means that driver licence fees cannot subsidise vehicle or operator licence fees and vice versa.
- 1.8 Licence fees cannot be used to recover the cost of enforcement against unlicensed drivers, vehicles, and operators, as such, any cost for enforcement against unlicensed activity must be met out of general funds and recovered, where possible through prosecution costs in court

2 Details of Proposal or Information

- 2.1 Since the last review of the Council's taxi licensing fees, costs have continued to rise and an increase in statutory requirements and changes to policy have placed further pressures on the Licensing Team. This means that our current taxi fees are no longer sufficient to recover costs.
- 2.2 The joint Environmental Health Service has conducted a comprehensive review of the current taxi licensing fees. In calculating the fees, a robust methodology, adopted widely across the Country, has been used, with input from North East Derbyshire District Council's s.151 officer. When calculating the proposed fees, the Licensing Team has taken into consideration the time taken to process each type of licence along with staffing costs, costs of materials, enforcement against current licence holders, policy development and general overheads. A table of proposed fee calculations are attached as **Appendix 1**. The fees have been calculated in line with the legislation and case law and have been rounded up/down to the nearest pound.

- 2.3 To assist Members in considering if the proposed fees are reasonable, officers have benchmarked the licence fees against those charged by other local authorities in Derbyshire. Benchmarking shows that the proposed fees remain competitive with other Derbyshire local authorities and a comparison table can be found attached as **Appendix 2**.
- 2.4 Whilst the majority of the fees have increased, we have seen a reduction to some fees. This has been achieved through efficiency savings via reviewing internal processes and transferring processing duties to that of a lower graded post. Whilst those same efficiency savings have been achieved in most areas of taxi licensing, the level of increased statutory requirements and the increase in material costs outweigh the efficiency savings.

Next Steps

- 2.5 Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 states that any proposed variation to fees for hackney carriage and private hire vehicles and private hire operators must be advertised in a local newspaper and be displayed in the Council Offices where they can be readily seen by members of the public. The Council must allow at least 28 days for comments to be made on the proposed variation. A draft notice has been prepared and can be found attached as **Appendix 3**.
- 2.6 There is no requirement to consult on or advertise any variations for other fees, such as those in relation to drivers' licences and miscellaneous items. However, it is proposed that the proposed changes to all fees be advertised.
- 2.7 In addition to advertising the statutory notice, licence holders will also directly be notified of the proposed fee changes.
- 2.8 If no objections are received during this period, the fees will come into force 28 days after the date that the public notice is advertised in the local newspaper. However, if objections are received, a further report will be placed before the General Licensing Committee no later than 2 months after the first specified date on which the new fares would come into force.

3. Reasons for Recommendation

- 3.1 Modifying the fees will ensure the Licensing Service remains cost neutral and recovers all reasonable costs in the licensing and regulation of Hackney Carriage and Private Hire Vehicles, Drivers, and Operators.
- 3.2 Failing to set licence fees in accordance with the statutory requirements could lead to a challenge against the Council. This may result in any unlawful licence fees having to be refunded to members of the trade. Failure to modify the fees could also result in the

Council operating the service at a loss. Should the taxi licensing service operate at a loss, the Council as a whole will bear the cost.

4 Alternative Options and Reasons for Rejection

- 4.1 The Council could choose to keep the current fees in place. If the Council keeps the current licence fees in place, this will result in the service operating at a loss for most licence types and for others may result in the Council overcharging.

RECOMMENDATION(S)

1. The Committee approves the revised draft licence fees for consultation.
2. The Committee requires the Joint Assistant Director of Environmental Health conduct a consultation directly with the trade and place the statutory notice in the relevant local newspaper, on the Council premises and on the Council website.
3. In the event objections are received, the Committee requires the Joint Assistant Director of Environmental Health to report any objections to the modified fees back to the General Licensing Committee in line with the legislative requirements.
4. In the event no objections are received, the Committee requires the Joint Assistant Director of Environmental Health implement the new fees and charges.

Approved by Councillor Clarke Portfolio Holder for Environment

IMPLICATIONS.

Finance and Risk: Yes No

Details:

There will be a minor cost associated with carrying out the consultation. This can be accommodated from existing budgets.

Having fees that are up to date ensure the Council is delivering a cost neutral service.

On behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details:

It is a legal requirement under the Local Government (Miscellaneous Provisions) Act 1976 that a licensing authority does not make a profit when delivering a taxi licensing regime. Having fees that are up to date; compliant with the legislation; justified; proportionate; clear; objective; made public in advance; transparent; and accessible reduces the risk of legal challenge by way of appeal or judicial review.

On behalf of the Solicitor to the Council

Environment:

Details:

N/A

Staffing: Yes No
Details:
None

On behalf of the Head of Paid Service

DECISION INFORMATION

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards, or which results in income or expenditure to the Council above the following thresholds:</p> <p>Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	No
<p>Is the decision subject to Call-In? <i>(Only Key Decisions are subject to Call-In)</i></p>	No

District Wards Significantly Affected	All
<p>Consultation: Leader / Deputy Leader <input type="checkbox"/> Executive <input type="checkbox"/> SLT <input checked="" type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input checked="" type="checkbox"/> Public <input checked="" type="checkbox"/> Other <input checked="" type="checkbox"/></p>	<p>Details: Chair of General Licensing Committee Portfolio Holder for Environment</p>

Links to Council Ambition: Customers, Economy, and Environment.
All

DOCUMENT INFORMATION	
Appendix No	Title
1	Fee Comparison
2	Proposed Taxi Licensing Fees
3	Draft Newspaper Advert

Background Papers
<i>(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive, you must provide copies of the background papers).</i>
https://www.local.gov.uk/publications/lga-guidance-locally-set-licensing-fees
Financial Accounts