

Bolsover District Council

General Licensing Committee
on 13th February 2025

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	Charmaine Terry, Environmental Health Team Manager (Licensing)

PURPOSE/SUMMARY OF REPORT

To consider the consultation response to a review of 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 The joint Environmental Health Service conducted a comprehensive review of the current taxi licensing fees. In calculating the fees, a robust methodology, adopted widely across the country was used, with input from North East Derbyshire District Council's s.151 officer. When calculating the proposed fees the service 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 fees 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.
- 2.2 To assist Members in considering if the proposed fees are reasonable, officers have prepared a table showing the fees charged by other local authorities in Derbyshire. The table shows that the proposed fees remain competitive with other Derbyshire local authorities and the comparison table can be found attached as **Appendix 2**.

- 2.3 On 10 October 2024, the General Licensing Committee considered the revised fees at **Appendix 1** and approved them for consultation.
- 2.4 In line with section 70 of the Local Government (Miscellaneous Provisions) Act 1976, notice of the proposed variation to the fees was published in the Derbyshire Times and a notice was displayed at the Council offices. In addition to publishing the required statutory notices, licence holders were contacted directly, and details of the proposed variations were publicised on the website. The consultation opened on 19 December 2024 and closed on 16 January 2025.

Consultation Response

- 2.5 During the consultation period, 9 consultation responses were received. Copies of the objections received can be found attached as **Appendix 3** and a summary of the issues raised, and officer responses can be found at **Table 1** below.

Table 1 – Consultation Summary

Concern raised	Officer Comments
The new prices are too high and unaffordable.	The prices have increased significantly; however, the current fees have been in place since 2018. Licence holders have benefited from no fee increases for 6 years. The proposed fees cover costs and do not generate a surplus.
If the new high prices come into effect, a lot of the taxi trade will move to other cheaper local authorities but continue to work in the Bolsover area.	It is noted that the proposed fees are broadly comparable with those charged elsewhere. Cross border operations are a growing concern for many local authorities, with some licensing significant numbers of applicants. This is beyond the control of the Council.
The operator fee has come down but drivers and vehicles have increased.	The fees have not gone up by consistent amounts as the change to the fee is not just due to inflation and increased staffing costs. The fees have also been varied to accommodate changes in administration process over the last 6 years, of which there have been many. Driver and vehicle licence applications have seen an increase in the amount of checks carried out. Conversely, there has been little to no change for operators. Operators have therefore benefitted from efficiency savings more than other licence types.

<p>Out of area operations are saturating the market, meaning there is less work in the district.</p>	<p>Cross border operations are a growing concern for many local authorities, with some licensing significant numbers of applicants. This is beyond the control of the Council.</p>
<p>Drivers have had to pay for the installation of CCTV in their vehicles.</p>	<p>The CCTV Policy was implemented from 2022. The cost of the CCTV systems were approximately £500 to £800. The Council did not increase taxi licensing fees during this period of implementation.</p>
<p>The joint service with NEDDC has had a negative impact on the trade.</p>	<p>Since the introduction of the joint service with NEDDC there have been a number of significant changes to national standards in taxi licensing. Any changes to processes have been as a result of national changes, not as a result of the strategic alliance with NEDDC. Decisions on taxi licensing policies remain within the control of Bolsover District Council's elected members.</p>
<p>If someone wants a cheaper and shorter licence they are only available in extenuating circumstances.</p>	<p>The duration of licences is set in the Deregulation Act 2015. It is clear in the legislation that the Council should only issue shorter period licences 'if the district council think it is appropriate in the circumstances of the case.' For this reason, shorter period licences are considered on a case by case basis.</p>
<p>The mandatory CCTV policy is unnecessary.</p>	<p>The mandatory CCTV policy has been in place since 2022 and any discussion on the relevance or necessity of the policy is a topic outside the scope of this report.</p>
<p>High costs do not encourage new trade in the district.</p>	<p>The cost of delivering this service is recovered from fees. The costs reflect the administration involved, which in turn is governed by the requirements of legislation and national guidance. It would not be appropriate for the Council to discount fees, subsidising the service from the general fund.</p>
<p>There is no hackney rank in the Bolsover district.</p>	<p>Bolsover District Council only has 4 licensed Hackney Carriage Vehicles. The district is rural in nature. Should there be calls from the trade to introduce a rank in the district, these would be considered. There are currently no requests outstanding for the introduction of a rank.</p>
<p>High prices encourage unlicensed activity.</p>	<p>Any reports of unlicensed activity are investigated by officers. Should increased fees result in an increase in reports of unlicensed activity, these will be monitored.</p>

<p>The vehicle licence fee is excessive because it is every 6 months, not annual.</p>	<p>Vehicles are licensed and tested every 6 months in line with the Council's policy. As the Council does not have an age restriction on vehicles it deems it appropriate to test vehicles every 6 months to ensure they remain safe. Over 10% of vehicle renewal tests in 2024 resulted in a failed examination. A change to process will require a change to policy and is outside the scope of this report.</p>
<p>Appendix 2 of the report does not make proper comparisons and members were misled with this information because the test fee was not included in the vehicle licence fee when some authorities include the test fee.</p>	<p>The proposed fees have been calculated to reflect the cost burden to the Council. The fees outlined in Appendix 2 of the report are there to demonstrate that the Council's costs in relation to the taxi licensing regime are not unreasonable. The fees table lists the costs for 'Vehicle Test' fees but there is variation within this between different Councils. For example, some authorities do not include the costs for signage and fixing within their vehicle licence fee. The Council's test fee is set by the Council's transport depot. This fee has not been amended as part of this exercise, but is included in the fee comparison to give Members an understanding of the full costs to licence holders.</p>
<p>The advert is not correct.</p>	<p>The advert complies with the requirements of the legislation. A copy of the advert placed in the Derbyshire Times is attached as Appendix 4.</p>
<p>The Council may not be complying with its requirement to carry out 'best value comparisons' under the Local Government Act 1999.</p>	<p>The Council has processes in place to conduct 'best value comparisons'. One recent example of a best value comparison would be the exercise undertaken to establish the cheapest method of conducting 6 monthly DBS checks, in line with the Council's new Taxi Licensing Policy and the Department for Transport's Statutory Standards. This exercise revealed that engaging the services of a third-party provider to conduct DBS checks on the Council's behalf would deliver a saving. Had this exercise not been carried out, the fee for Driver Licences would have increased further.</p>

2.6 In line with the legislation and the Council's constitution, the results of the consultation must now be considered before determining final fees.

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.
- 3.3 Failure to increase 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. This would result in the service operating at a loss for most licence types and for others may result in the Council overcharging.
- 4.2 Alternative options for an incremental introduction of the new fees, or a temporary reduction to the new fees, have been considered but rejected. Either of these options would result in the Council operating the service at a loss and as a result: -
 - shortfalls in fee income would have to be subsidised by the Council, or
 - a reduction in the quality or timeliness of the service provided would be required, in order to remain within budget. Any such change could lead to the Council's service not being compliant with statutory requirements.

RECOMMENDATION(S)

1. That Committee considers the responses to the consultation and the officer comments and explanations.
2. That committee approves the fees as advertised.

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

<p>Legal (including Data Protection): Yes <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p>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.</p> <p style="text-align: right;">On behalf of the Solicitor to the Council</p> <p>Environment: Details: N/A</p> <p>Staffing: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Details: None</p> <p style="text-align: right;">On behalf of the Head of Paid Service</p>

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"/></p> <p><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	<p>Click here to enter text.</p>
<p>Is the decision subject to Call-In? <i>(Only Key Decisions are subject to Call-In)</i></p>	<p>Click here to enter text.</p>

<p>District Wards Significantly Affected</p>	<p>All</p>
<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>

<p>Links to Council Ambition: Customers, Economy, and Environment.</p>
<p>All</p>

DOCUMENT INFORMATION

Appendix No	Title
1	Proposed Fees
2	Derbyshire Fee Comparison
3	Objections
4	Newspaper Advert

Background Papers

(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).

<https://www.local.gov.uk/publications/lga-guidance-locally-set-licensing-fees>

Financial Accounts