



2 March 2022

LICENSING AND SAFETY COMMITTEE – 10 MARCH 2022

A meeting of the Licensing and Safety Committee will be held at 6pm on Thursday 10 March 2022 in the Council Chamber at the Town Hall, Rugby.

Members of the public may view the meeting via the livestream from the Council's website.

Mannie Ketley
Executive Director

Note: Members are reminded that they should declare the existence and nature of their non-pecuniary interests at the commencement of the meeting (or as soon as the interest becomes apparent). If that interest is a prejudicial interest the Member must withdraw from the room unless one of the exceptions applies.

Membership of Warwickshire County Council or any Parish Council is classed as a non-pecuniary interest under the Code of Conduct. A Member does not need to declare this interest unless the Member chooses to speak on a matter relating to their membership. If the Member does not wish to speak on the matter, the Member may still vote on the matter without making a declaration.

A G E N D A

PART 1 – PUBLIC BUSINESS

1. Minutes.

To confirm the minutes of the:

Licensing and Safety Committee held on 25 January 2022 and Licensing Sub Committee (General) held on 3 February 2022.

2. Apologies.

To receive apologies for absence from the meeting.

3. Declarations of Interest.

To receive declarations of –

- (a) non-pecuniary interests as defined by the Council's Code of Conduct for Councillors;
- (b) pecuniary interests as defined by the Council's Code of Conduct for Councillors; and
- (c) notice under Section 106 Local Government Finance Act 1992 – non-payment of Community Charge or Council Tax.

4. Review of Taxi Licensing Fees.

PART 2 – EXEMPT INFORMATION

There is no business involving exempt information to be transacted.

The Reports of Officers are attached.

Membership of the Committee: Councillors Mrs A'Barrow (Chairman), Bearne, Brader, Cade, Douglas, Miss Dumbleton, Ellis, Mrs Garcia, Keeling, Mrs Roodhouse, Mrs Timms and Dr Williams

If you have any general queries with regard to this agenda please contact Linn Ashmore, Democratic Services Officer (01788 533522 or e-mail Linn.Ashmore@rugby.gov.uk). Any specific queries concerning reports should be directed to the listed contact officer.

AGENDA MANAGEMENT SHEET

Report Title:	Review of Taxi Licensing Fees
Name of Committee:	Licensing and Safety Committee
Date of Meeting:	10 March 2022
Report Director:	Chief Officer - Regulation and Safety
Portfolio:	Regulation and Safety
Ward Relevance:	None
Prior Consultation:	None
Contact Officer:	Emma Payne, Licensing Officer x3855
Public or Private:	Public
Report Subject to Call-In:	No
Report En-Bloc:	No
Forward Plan:	No
Corporate Priorities:	This report relates to the following priority(ies): <input type="checkbox"/> Rugby is an environmentally sustainable place, where we work together to reduce and mitigate the effects of climate change. (C) <input type="checkbox"/> Rugby has a diverse and resilient economy that benefits and enables opportunities for all residents. (E) <input checked="" type="checkbox"/> Residents live healthy, independent lives, with the most vulnerable protected. (HC) <input type="checkbox"/> Rugby Borough Council is a responsible, effective and efficient organisation. (O) Corporate Strategy 2021-2024 <input type="checkbox"/> This report does not specifically relate to any Council priorities but
(C) Climate (E) Economy (HC) Health and Communities (O) Organisation	
Summary:	Taxi Licence fees were last reviewed in 2015 and a review is appropriate at this time. Licensing have worked closely with Finance to determine exact costs for services as set out at Appendix A.
Financial Implications:	As detailed in the main report and Appendix A, new fees are proposed to be agreed for consultation

Risk Management/Health and Safety Implications:

Environmental Implications:

Legal Implications:

The Council can be challenged in relation to the process for setting licence fees, and also the level at which the fees are set.

Equality and Diversity:

There are no equality & diversity considerations arising from this report.

Options:

Review Taxi Licensing Fees and recommend to Full Council that the reviewed fees are subject to public consultation in accordance with statutory obligations and best practice.

Review Taxi Licensing Fees and propose no changes are made to the current fees.

Recommendation:

IT BE RECOMMENDED TO COUNCIL THAT the proposed fees and charges set out at Appendix A are approved for public consultation.

Reasons for Recommendation:

A period of seven years has passed since the last review of the Taxi Licensing Fees therefore a review is now necessary to ensure appropriate cost recovery is being achieved.

Licensing and Safety Committee - 10 March 2022

Review of Taxi Licensing Fees

Public Report of the Chief Officer - Regulation and Safety

Recommendation

IT BE RECOMMENDED TO COUNCIL THAT the proposed fees and charges set out at Appendix A are approved for public consultation.

1. Background

- 1.1 In this report “taxi” refers to both hackney carriage and private hire licences.
- 1.2 Taxi licence fees are required to be cost neutral so far as is possible in accordance with the relevant legislation and case law. These set out the elements of the licensing process which can be included in the calculation of fees.
- 1.3 The relevant legal provisions are set out in section 53 of the Local Government (Miscellaneous Provisions) Act 1976 (“**the Act**”) with respect to driver licences and section 70 in relation to vehicle and operator licences, both of which permit the recovery of a fee for the grant of a licence. These fees are restricted by the legislation and within those parameters, must be reasonable.
- 1.4 Despite an apparent disparity between sections 53 and 70 of the Act regarding whether the power to set fees is an executive or non-executive function, Regulation 2(6) of the Local Authority (Functions and Responsibilities) (England) Regulations 2000 requires that “where a charge is made for any such approval, consent, licence, permit or registration, the amount of the charge, is not to be the responsibility of an executive of the authority”. As a result, fee setting for taxi licensing is a non-executive function and, in the absence of any delegated authority to the contrary, should be determined by Full Council, taking into account any appropriate recommendations from the Licensing and Safety Committee.

2. Report

- 2.1 Section 53 of the Act specifies that the costs related to administration and issue of licences can be recovered in respect of driver’s licence fees. In respect of vehicle and operator licences, section 70 specifies that the reasonable cost of inspecting vehicles, the provision of hackney carriage stands, and any reasonable administrative costs in connection with those activities and costs relating to the control and supervision of hackney carriages and private hire vehicles can be included in the fees.
- 2.2 It was previously thought that the costs of enforcement could not be considered in the calculation of fees for driver licences. The decision in the Court of Appeal case

of R (app Rehman) v Wakefield City Council [2020] R.T.R. 11 (2019), however, determined that “administration” can include the cost of enforcement or compliance against licensed drivers. The same principles apply to the enforcement of vehicles and operators.

- 2.3 Licence fees cannot be utilised for enforcement events against unlicensed persons, or those licensed by other authorities. It is therefore necessary for the cost of enforcement of unlicensed drivers, vehicles and operators to be met out of general funds and any costs awarded following Court proceedings. This work forms a very small part of the overall work of the taxi licensing service with most activity directed at the licensed trade.
- 2.4 Behind this review of fees, the general approach has been determined by the 1976 Act and the document ‘Open for business: Local Government Association guidance on locally set licence fees’. This guidance has been used only as a starting point as it does not take into account the specific statutory restrictions applicable to taxi and private hire fees and therefore not all the costs listed as recoverable in the guidance have been included in the fees. It was last revised in June 2017 and so also does not take into account the decision in the recent Wakefield case in relation to enforcement costs.
- 2.5 The Local Government Association issued guidance to councils in 2017 relating to fees and stated:
- It is an accepted principle that licensed activities should be funded on a cost-recovery basis, paid for by those benefiting from the licensed activity, rather than drawing on the public purse.
 - Charges must be reasonable and proportionate to the cost of the processes associated with a licensing scheme. Councils must not use fees to make a profit or act as an economic deterrent.
- 2.6 Whilst this guidance is helpful it is based on the general principle that fees should be cost neutral and therefore the licensing budgets should balance. The recent Wakefield High Court decision in 2018 (upheld by the Court of Appeal in 2019) made it clear that there is no general principle that licensing regimes should be self-financing. Whether or not a particular licensing regime can be cost neutral will depend on the wording of the particular legislation in question. As a result of the wording of the 1976 Act, this principle does not apply to taxi licensing
- 2.7 The Local Government Association guidance draws attention to two important Senior Court decisions in relation to fees. The first is R (Cummings) v Cardiff [2014] which rules that the charges within a licensing regime for different categories of licence should be accounted separately and should not subsidise each other. This means that driver licence fees cannot subsidise vehicle or operator licence fees and vice versa. This approach has been endorsed by the Court of Appeal in the Wakefield decision.
- 2.8 The Local Government Association guidance acknowledges that Councils can arrange their licensing service to best serve the needs of their community and recover the costs accordingly. It offers a number of factors that Councils may wish to consider. These include administration, visits, third party costs, liaison with interested parties, management costs, local democracy costs, staffing on-costs, development, determination and production of licensing policies, web material,

advice and guidance, setting and reviewing fees, monitoring and inspection visits and maintaining statutory registers.

2.9 A thorough review of the cost of delivering taxi licensing services has been carried out and new fees are proposed that reflect both the full staffing costs of running the service as well as the support service costs. Some of the key points that have been considered and included in calculating the proposed fees are highlighted below:

- This review has factored in recoverable costs incurred by the Council such as Democratic Services and Committees, Internal Recharges (for example, IT provision, HR, Legal and Finance Support). Where costs, such as these, are **general** and apply across all types of licence, this has been applied on an average basis, equally across all licences.
- Where **specific** costs have been incurred, these have been calculated individually and applied to that type of licence only, as required by legislation. Administration and application costs (including staff time) have been reviewed and calculated separately for each type of licence in detail. Consumables have also been looked at individually for each type of licence and charged on that basis. Operators' fees include inspection costs for premises inspections specific to Operators. Dual drivers' licence fees have incurred additional costs due to court cases over the last 3 years as they have all related to existing drivers. This approach ensures that no cross subsidy has been incurred and that relevant costs have only been charged to that particular licence where identifiable and applicable.
- None of the fees include activity or cost related to unlicensed drivers, operators or vehicles, as dictated by legislation and also mentioned in paragraph 2.3.
- The review has been conducted using actual data over a 3 year period 2018/19 to 2020/21 and advice has been sought from an independent consultant to ensure that the approach taken is justified and allowable within legislation.
- A fee schedule of the new proposed fees and charges is provided at **Appendix A**.
- Where the current fee shown within **Appendix A** shows as N/A, this is because it is a new fee that is being introduced.

2.10 Fees which are paid by the applicant directly to an external supplier for services required as part of the application or licensing process, such as the group 2 medical examination, driving assessment and English Communications assessment, have not been included.

2.11 Other fees, which are also included within **Appendix A**, have been calculated for other tasks that are separate to and charged in addition to the Licence Fee. Some of these include; the cost of carrying out Vehicle Safety Tests at the Council's Work Services Unit (applicable to Private Hire or Hackney Carriage vehicle licences), Knowledge tests (applicable when applying for a Drivers Licence), DVLA mandate fee (applicable to Drivers Licences) and issuing of replacement papers and/or consumables, if requested.

3. Taxi Licensing Income and Expenditure

3.1 The 'ring fenced' nature of the budget requires the Council to consider its income and expenditure over more than one year and this should be clearly evidenced. The Council records its financial data in its general ledger and the relevant costs, income and reserve transfers are summarised from 2015/16 (when the fees were last changed) to 2020/21 in Table 1 below.

Please note that income is shown in brackets and expenditure is shown without brackets. Also, a surplus (i.e. profit) is shown in brackets and a loss is shown without brackets.

Table 1 – Actual Income, Expenditure and Reserve transfers within the Taxi Service from 2015/16 to 2020/21

Year	(Income) £	Expenses £	Net loss/(surplus) before reserve transfers £	Transfers (out of)/into reserve £	Net loss/(surplus) after reserve transfers £
2015/16	(92,831)	80,010	(12,821)	28,820	15,999
2016/17	(£77,674)	79,403	1,729	13,660	15,389
2017/18	(56,975)	82,905	25,930	(10,020)	15,910
2018/19	(91,555)	79,053	(12,502)	26,390	13,888
2019/20	(66,905)	84,406	17,501	0	17,501
2020/21	(42,521)	70,029	27,508	(20,008)	7,500
Totals	(428,461)	475,806	47,345	38,842	86,187

- As shown in the table above, since 2015/16 when the fees were last changed and 2020/21 (the last complete financial year), the service has made a loss of £47,345, before taking reserve transfers into account and a loss of £86,187 after taking reserve transfers into account. As a consequence of this and after undertaking this detailed review, it is clear that there is no surplus to be reimbursed to the Trade for prior years. On the contrary, as there is a deficit, the fees are required to increase to ensure cost recovery is exercised and to ensure that there is no further pressure on the General Fund.
- The current balance in the Hackney Carriage reserve, as at the end of 2020/21, is a surplus of (£38,842) which is less than the amount that is owed to the General Fund and as such the proposed fees are higher to take this loss into account. As mentioned in 2.9 the actual expenditure and income have been analysed and averaged over a 3-year period, 2018/19 to 2020/21, to calculate the new fees, subject to consultation and further approval by the Committee as well as Full Council.
- There is a need for a surplus balance to be held in the Hackney Carriage reserve each year to ensure that income can be brought into the service for licences which were paid in advance i.e. drivers licences which cover a 3 year period and operators licences which cover a 5 year period to account for them in the correct financial year, as required by accounting guidelines.

3.2 Fees have remained at the current levels since they were last reviewed in 2015.

4. Public Consultation

4.1 Subject to Full Council approval, the proposed fees will be subject to a public consultation process with the licensed trade and other relevant parties.

4.2 Section 70 of the Act sets out statutory consultation requirements in relation to vehicle and operator licence fees which require a notice to be published in a local newspaper and at least 28 days provided for comments to be made.

4.3 A copy of the notice advertising the increased fees must also be deposited at the Council offices and be available for inspection by the public at all reasonable times, without payment.

4.4 Whilst Section 53 of the Act does not require the Council to follow a public consultation process in relation to the driver licence fees it is considered best practice to follow the same process as set out in Section 70 of the Act for vehicle and operator licences.

5. Following the consultation process:

5.1.1 In the event that no objections are received during the consultation process, or all objections are withdrawn, then the fees relating to vehicle and operator licences will automatically come into force.

5.1.2 If there are outstanding objections following the consultation process in relation to vehicle and operator licence fees, then a further report will be presented to Members for consideration.

5.1.3 In relation to the driver licence fees, a further report will be presented to Members for consideration following the consultation.

Name of Meeting: Licensing and Safety Committee

Date of Meeting: 10 March 2022

Subject Matter: Review of Taxi Licensing Fees

Originating Department: Regulation and Safety

DO ANY BACKGROUND PAPERS APPLY YES NO

LIST OF BACKGROUND PAPERS

Doc No	Title of Document and Hyperlink

The background papers relating to reports on planning applications and which are open to public inspection under Section 100D of the Local Government Act 1972, consist of the planning applications, referred to in the reports, and all written responses to consultations made by the Local Planning Authority, in connection with those applications.

Exempt information is contained in the following documents:

Doc No	Relevant Paragraph of Schedule 12A

Appendix A- Proposed Taxi Licensing Fees for implementation during 2022/23

(Subject to further consultation and approval processes)

Drivers		
Type	Proposed Fee (£)	Current Fee (£)
Dual Drivers Licence - New (3 year)	496.00	370.00
Dual Drivers Licence - Renewal (3 year)	494.00	220.00
Private Hire Drivers Licence - New (3 year)	496.00	N/A
Private Hire Drivers Licence - Renewal (3 year)	476.00	N/A

Vehicles- Private Hire		
Type	Proposed Fee (£)	Current Fee (£)
Vehicle Licence (1 year)- New	200.00	145.00
Vehicle Licence (1 year)- Renewal	190.00	145.00
Vehicle Licence for 6 years + (6 monthly)	100.00	N/A
Transfer of vehicle	190.00	12.50

Vehicles- Hackney Carriages		
Type	Proposed Fee (£)	Current Fee (£)
Vehicle Licence (1 year)- New	200.00	145.00
Vehicle Licence (1 year)- Renewal	190.00	145.00
Vehicle Licence for 6 years + (6 monthly)	100.00	N/A
Transfer of vehicle	190.00	12.50

Operators		
Type	Proposed Fee (£)	Current Fee (£)
Operators Licence (5 years)- New		
1-4 vehicles	813.00	380.00
5-9 vehicles	883.00	680.00
10-19 vehicles	999.00	£974 (10+ vehicles)
20+ vehicles (new band)	1,154.00	N/A
Operators Licence (5 years)- Renewal		
1-4 vehicles	814.00	344.00
5-10 vehicles	884.00	642.00
10-19 vehicles	1,000.00	£940 (10+ vehicles)
20+ vehicles (new band)	1,155.00	N/A

Other Fees- charged separately from main licence fees		
Type	Proposed Fee (£)	Current Fee (£)
Vehicle Compliance Test (carried out by WSU)	44.00	40.00
Transfer of proprietor	22.00	12.50
Replacement Dual Drivers Licence (Badge)	12.00	5.00
Replacement Private Hire Drivers Licence (Badge)	12.00	N/A
Replacement Vehicle Plate	17.00	34.00
Replacement Operators Licence	8.00	N/A
Replacement Vehicle Plate Bracket	14.00	N/A
DBS Check	52.00	44.00
Knowledge test	39.00	30.00
DVLA check	10.00	10.00

* Please note, all fees and charges listed above are Outside of the Scope of VAT