

Notice of Meeting

Licensing Committee Special meeting

Tuesday, 25th May 2010 at 6.30pm
in Committee Room 1 Council Offices
Market Street Newbury

Date of despatch of Agenda: Monday, 17 May 2010

For further information about this Agenda, or to inspect any background documents referred to in Part I reports, please contact Jessica Broom on (01635) 519591
e-mail: jbroom@westberks.gov.uk

Further information and Minutes are also available on the Council's website at
www.westberks.gov.uk



To: Councillors Peter Argyle, Jeff Beck (Chairman), Paul Bryant, Billy Drummond, Adrian Edwards, Geoff Findlay, Manohar Gopal, Roger Hunneman, Tony Linden, Mollie Lock, Gwen Mason (Vice-Chairman), Andrew Rowles, Ieuan Tuck and Quentin Webb

Agenda

Part I

Page No.

1. **Apologies**
To receive apologies for inability to attend the meeting (if any).
2. **Declarations of Interest**
To receive any Declarations of Interest from Members.
3. **Hackney Carriage & Private Hire Licensing** 1 - 14
Purpose: To consider objections against the proposed fees for hackney carriage drivers and private hire operators set by Council for the financial year 2010/11.

Andy Day
Head of Policy and Communication

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Title of Report:	Hackney Carriage & Private Hire Licensing
Report to be considered by:	Licensing
Date of Meeting:	25 May 2010
Forward Plan Ref:	

Purpose of Report: To consider objections against the proposed fees for hackney carriage drivers and private hire operators set by Council for the financial year 2010/11

Recommended Action: To consider the report and options provided

Reason for decision to be taken: Legal obligation

Other options considered: None

Key background documentation:

The proposals contained in this report will help to achieve the following Council Plan Priority(ies):

- CPP1 – Support our communities through the economic recession** – to alleviate the impact on different communities and individuals who find themselves out of work and/or disadvantaged
- CPP2 – Raise levels of educational achievement** – improving school performance levels
- CPP3 – Reduce West Berkshire’s carbon footprint** – to reduce CO₂ emissions in West Berkshire and contribute to waste management, green travel, transportation and energy efficiency

The proposals will also help achieve the following Council Plan Theme(s):

- CPT1 - Better Roads and Transport**
- CPT2 - Thriving Town Centres**
- CPT3 - Affordable Housing**
- CPT4 - High Quality Planning**
- CPT5 - Cleaner and Greener**
- CPT6 - Vibrant Villages**
- CPT7 - Safer and Stronger Communities**
- CPT8 - A Healthier Life**
- CPT9 - Successful Schools and Learning**
- CPT10 - Promoting Independence**
- CPT11 - Protecting Vulnerable People**
- CPT12 - Including Everyone**
- CPT13 - Value for Money**

<input type="checkbox"/>	CPT14 - Effective People
<input type="checkbox"/>	CPT15 - Putting Customers First
<input type="checkbox"/>	CPT16 - Excellent Performance Management
The proposals contained in this report will help to achieve the above Council Plan Priorities and Themes by:	

Portfolio Member Details	
Name & Telephone No.:	Councillor Hilary Cole - Tel (01635) 248542
E-mail Address:	hcole@westberks.gov.uk
Date Portfolio Member agreed report:	17 May 2010

Contact Officer Details	
Name:	Brian Leahy
Job Title:	Senior Licensing Officer
Tel. No.:	01635 519209
E-mail Address:	bleahy@westberks.gov.uk

Implications

- Policy:** The Council has an existing policy for determining fees for taxis, private hire vehicles, drivers and operators for each financial year.
- Financial:** There are financial implications for the council should certain changes to the scale of fees be changed.
- Personnel:** None at this time: however there will be increased work implications for officers should certain changes be recommended.
- Legal/Procurement:** The Council has a duty to licence hackney carriage vehicles.
- Property:** None
- Risk Management:** None
- Equalities Impact Assessment:** None
- Corporate Board's View:** to be completed after the Corporate Board meeting

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval	<input type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	
Delays in implementation could compromise the Council's position	<input type="checkbox"/>	
Considered or reviewed by Overview and Scrutiny Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	

1. Introduction

1.1 Fees for Hackney Carriage and Private Hire Driver's Licence

- 1.2 Drivers of hackney carriages are required to hold a licence issued by the District Council under section 46 of the Town Police Clauses Act 1847. The District Council is authorised by this section to charge such fee for a licence as the Council determines.
- 1.3 Drivers of private hire vehicles are required to hold a licence issued by the District Council under section 51 of the Local Government (Miscellaneous Provisions) Act 1976.
- 1.4 Section 53 of the Local Government (Miscellaneous Provisions) Act 1976 refers to both hackney carriage and private hire drivers licences and states that “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”.
- 1.5 The Act of 1847 appears silent on the right of any affected individual to appeal such a fee as does section 53 of the Local Government (Miscellaneous Provisions) Act 1976.

2. Objection

- 2.1 An objection against the charges where both a hackney carriage driver's licence and a private hire driver's licence are applied for by the same person has been received from the proprietor of Theale Taxis & Chauffeur Hire, Mr Richard Brown, on his and his drivers behalf.
- 2.2 Mr Brown's letter is self explanatory and is shown as Appendix 1.

3. Background

- 3.1 It came to light during last year that there was a misunderstanding of the law by some drivers who held a Hackney Carriage Driver's Licence, that they could drive a Private Hire vehicle using the same licence. This is not legally correct. A letter was sent to all those persons whom the Council were aware of who could be under this misapprehension explaining the legal position.
- 3.2 As a result of this exercise all of those drivers who wished to continue driving both types of vehicle applied for and were issued with a separate private hire driver's licence and badge.
- 3.3 Mr Brown now argues that the process of dealing with issuing two licences to an individual could be simplified and in so doing the cost could be reduced.

Both licences are issued for a period of three years.

4. Breakdown of (2010/11 fees)

4.1 I concur with Mr Brown's figures as follows using the fees agreed by Council for 2010/11, the issue of 2 licences would cost,

Hackney Carriage licence fee	£233.00
CRB	£34 + 15 admin fee
Medical	£90
Total	£374
Private Hire licence fee	£233.00

4.1.1 As no medical or CRB are required there are no additional charges for both licences leaving the total fee of £607 for a (dual) three year licence. Of this figure £481 is credited as income to the council i.e. excluding the cost of the CRB and medical checks which are passed on to the relevant authorities.

4.1.2 This can be shown to equate to a cost of approximately 70p per day (based upon the assumption that drivers work 6 days a week with four weeks holiday per year, although it is accepted that different drivers will work different numbers of days per year).

4.1.3 For this fee, the service the Council provides is broken down into administration duties and officer actions.

5. Administrator's role

5.1 Application form and conditions can be obtained either by e mail, post, by picking up in person or via the council's website.

5.2 The application is to be delivered by the individual to the administrator and identity checked. All documents are checked, the fee is taken and receipt for the fee given. The time taken for this will differ dependant upon whether or not the applicant is a first timer or a renewed application.

5.3 Where necessary the administrator will give advice to the applicant on the filling out of the forms.

5.4 The administrator will check the CRB documents counter sign them and send the document off to the CRB by post (mandatory requirement).

5.5 A photograph of the applicant will be sent to the Occupational Health Service, by the administrator, informing them that the person shown in the photograph should be booking a driver medical.

5.6 Letters are sent to the named referees asking them to confirm that they know and support the applicant.

5.7 All details are then entered onto a spreadsheet in order to centralise the data. (At this point no computer data entry is made in case the application does not come to fruition).

- 5.8 A holding paper file is created and stored.
- 5.9 As information is received regarding CRB, medical and references the data base/spreadsheet is updated.
- 5.10 When all data receipts are in the administrator will arrange a knowledge test for the applicant.
- 5.11 Once the applicant has successfully completed the knowledge test the details of the application will be entered onto the Uniform licensing data base and all documents scanned and attached to the computer file.
- 5.12 The administrator will create the paper licence/s and the driver badges (in order to create the badge a separate piece of computer equipment is engaged).
- 5.13 Once checked by an officer the file/licences are presented to the authorised officer for signature.
- 5.14 The administrator will then inform the applicant that the licences are ready for collection. Although mailing is not preferred, it will be carried out in certain circumstances, at the applicants request.
- 5.15 These actions are carried out for each type of licence.

6. Officer role

- 6.1 Check details of application documents and licence details.
- 6.2 Carry out knowledge test (often in excess of 2 hours per test).
- 6.3 Answer technical queries by telephone, e mail, letter or to personal callers.
- 6.4 Deal with taxi related complaints (all of which are recorded as service requests and answered/dealt with in accordance with the service plan) and enter details on Uniform.
- 6.5 Carry out enforcement work (nights and daytime) either as necessary, or as part of a programme of enforcement work initiated by, or in partnership with other agencies, including the police, VOSA and school transport agencies.
- 6.6 Liaise with trade associations at least three times per year.
- 6.7 Process requests from the trade for matters of trade concern to be heard by the Licensing Committee in report format and attend and present such reports to licensing committee meetings.
- 6.8 Maintain and update licensing website when necessary and time allows.
- 6.9 Time spent on taxis by the administrator was approximately 90% of each working week and officer time was the equivalent of one full time officer since June last year albeit the officers worked on taxis for a four month period each.

7. Conclusion

- 7.1 As stated in para 1.5 of this report there appears to be no statutory right to appeal variations in fee for either hackney carriage or private hire driver licences imposed by the council. Nor is there any statutory duty on the council to reconsider such fees upon objection. However, officers have undertaken to put all reasonable requests for taxi/private hire changes to members of the Licensing Committee and due to the following item on this report being required to be addressed, it was felt prudent to put Mr Brown's letter of objection to members.
- 7.2 If members believe that changes to the fee structure for drivers licences should be considered for future years they can commission officers to liaise with the trade in looking at alternative arrangements.

Note: There are currently 314 hackney carriage driver licence holders and 173 private hire.

8. Fees for Private Hire Operators' Licences

- 8.1 The Local Government (Miscellaneous Provisions) Act 1976 section 70 deals with fees for vehicle and operators' licences and allows that 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, any reasonable administrative or other costs in connection with the control and supervision of hackney carriages or private hire vehicles.
- 8.2 It is a requirement of section 55 of the Act that all persons engaged in the accepting of bookings for every contract for the hire of a private hire vehicle must be licensed.
- 8.3 Section 70 (2) gives a standard fee for an operator's licence as not exceeding £25 or in any such case, such other sums as a district council may, subject to the following provisions of this section, from time to time determine.
- 8.4 Section 70(3) goes on to say "If a district council determine that the maximum fees as specified in subsection (2) (above) should be varied they (the council) shall publish in at least one local newspaper circulating in the district a notice setting out the variation proposed, drawing attention to the provisions of paragraph (b) (below) of this subsection and specifying the period, which shall not be less than 28 days from the date of the first publication of the notice, within which and the manner in which objections to the variation can be made".
- 8.5 Paragraph (b) requires that a copy of the notice referred to in paragraph (a) (above) shall for the period of 28 days from the date of the first publication thereof be deposited at the offices of the council which published the notice and shall at all reasonable hours be open to public inspection without payment.
- 8.6 Section 70 (3)(a) and (b) were duly complied with.

9. Objection

- 9.1 An objection has been made to the 2010/11 scale of fees for the above licences by The West Berkshire Executive Hire Association
- 9.2 Mr Keith Jenn, Chairperson of the association has written to the council, letter shown as Appendix 2.
- 9.3 Subsection (5) of section 70 requires that if objection is duly made and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date (5th May 2010) on which the variation shall come into force with or without modification as decided by the district council after consideration of the objections.

10. Background

- 10.1 The Council have traditionally set a fee for private hire operators licences and last years 2009/10 fee for an annual licence was **£49.50p**.
- 10.2 During 2009/10 operator fees have been subject to some scrutiny and by applying the cost to the licensing team of the service currently provided in respect of operators licences a recommendation was made to accountants that the fees be reviewed. The fee set was revised to apply to the numbers of vehicles for which the operator takes bookings which is in line with most neighbouring authorities.
- 10.3 In addition officers have been concerned over the last year regarding the numbers of enquiries from persons living outside West Berkshire, who hold operators licences with our neighbouring authorities, wanting to hold a licence with the council. The reasons given have been that we are much cheaper than other authorities within the unitary county.
- 10.4 Officers have had to spend a large amount of time investigating some of these newer operators due to complaints of illegal activity from both the private hire trade and our local authority neighbours. All of this activity places additional costs on the authority which is currently unfunded.
- 10.5 Information was sought from the following authorities as to their projected fees for 2010/11. The results are as follows;

Authority	No of vehicles		
	1	2-5	>5
West Berks	£ 49.50		
South Oxford	£ 65.00		£ 85.00
Vale of White Horse	£105.00	£135.00	£ 168.00
Reading	£284.00	£620.00	£1040.00
Wokingham	£ 59.00	£164.00	£ 326.00
Aylesbury	£203.00		
Oxford City	£490.00		£ 980.00
Wycombe	£100.00	£150.00	£ 200.00
Windsor & Maidenhead	£265.00		£ 440.00
Bracknell	£140.00	£245.00	£ 390.00
West Oxford	£ 69.00	£129.00	£ 189.00

The averages are therefore as follows;

1 car	£166
2 - 5 cars	£240
>5 cars	£424

10.6 The council currently has an income of £3400 approx per annum on private hire operators. This includes renewals and a few new licences each year.

10.7 Expenditure on the administration, enforcement and complaint resolution leaves the council with a deficit for this type of licence.

10.8 A breakdown of operator licence costs (based upon the assumption that drivers work 6 days a week with four weeks holiday per year, although it is accepted that different drivers will work different numbers of days per year. Using the same formula as at 4.1.2 above is as follows;

1 car 58p per day

2-5 cars £0.83p per day

5> cars £1.47p per day

10.9 Officers have sought information from those authorities who have lower or similar fees to ourselves for 2009/10 and find that the amount of work/time expended on private hire operator administration, enforcement and control is nowhere at the level of our own. This included those authorities cited by the association in their letter.

10.10 Members are advised that if, as a council service, licensing should be as near self funding as possible either the fees must rise or the amount of work/time spent on private hire must reduce.

Note: There are currently 63 holders of private hire operator licences.

11. Options

11.1 To determine that the fees set for 2010 are reasonable and to set a new date for the implementation of such fees which is not later than 2 months after the first specified date (5th May 2010).

11.2 If members are minded to recommend any change the 2010/11 fees they must make such recommendation as they agree, for officers to reconsider those fees and remit a report to full council for decision not later than 2 months after the first specified date (5th May 2010).

12. Appendices:

Appendix A – Letter from Theale Taxi & Chauffer Hire

Appendix B – Letter from West Berkshire Executive Hire Association

Local Stakeholders: West Berkshire Hackney Carriage Driver's Licence holders. CABCO Members Association. West Berkshire Hackney & Private Hire Association. West Berkshire Executive Hire Association.

Officers Consulted: Paul Anstey, Gabrielle Esplin, Gillian Barnes, Andy Day, Steve Broughton

Trade Union: None

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THEALE TAXIS & CHAUFFEUR HIRE
17 HIGH STREET THEALE READING BERKSHIRE RG7 5AH
Tel: 0118 9302345

Tuesday, 04 May 2010

Proposed Hackney Carriage and Private Hire Table of Fares (wef 05-05-10)

Dear Brian,

On behalf of my Drivers and myself, I wish to object to the scale of fees as advertised, not being reasonable. LG(MP)A 1976. s53 (2)

As your aware the Councils Licencing team allowed Hackney Carriage (HC) Licenced drivers to operate Private Hire Vehicles (PHV) using their Hackney Carriage Licence. This was rectified by the department by the issuing a PHV Paper Licence and Drivers Badge at the cost to drivers as advertised in the table of Fees, as agreed with this association. Since then I believe this has not been consulted on fully. This fee to drivers who require both licences would be unreasonable, i don't believe to check and file documents cost £164.00.

Drivers who have held both and are due to re licence, or have re licenced as drivers are finding the fee unreasonable, I her from others that some have given up one of the licences held.

I work it out to renew (existing driver) £607.00 to be able to hold both licences. Application of £233 for HCV £233 for PHV £51 for CRB and £90 Medical. (New Driver £671.00)

Please reconsider your proposed fees by using the charges within the table of fees, Replacement Badge £34.50 and Replacement Licence £34.50, with the addition of an admin charge.

A simple one page document attached to the HC drivers application should be sufficient to hold the information required.

It is important to appreciate that a statutory power to levy a fee dose not give the council an absolutely free hand in relation to the scale of the fee that is levied, The impact of any increase upon the livelihood of those effected has to be taken into account, as dose the scale of the increase itself.

We accept that the control of HC & PH vehicles and associated drivers and operators is a time-consuming and costly exercise, and it is quite legitimate for the council to recover as much of their costs in relation to this.

I am happy to confirm all other fees i accept.

Yours sincerely *Richard J Brown*

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West Berkshire Executive Hire Association
 Wayside
 46, Greenham Road
 Newbury
 Berks
 29th April 2010.

Senior Licensing Officer
 West Berkshire District Council
 Faraday Road
 Newbury
 Berks

Dear Sir,

Proposed Fees for Hackney Carriage & Private Hire

With reference to the notification in the Newbury Weekly News of 8th April 2010. regarding the proposed substantial increase in the Private Hire Operators Licence, we are writing to confirm that the Association strongly objects to this being implemented.

In February this year representatives of the Association were invited to an informal meeting with Mr Leahy, when outline details of the proposal were explained with assurances that the full details would be sent to the Association shortly.

We were given to understand that the increase was necessary to cover a loss by the Council of approximately £19,000.00. in the accounts relating to the Private Hire Licensing section. The implication was that this had been building up over the previous five years, without anything being done to rectify the situation, but now action was to be taken to restore the accounts to a profitable position by increasing the Operator's fees from £49.50. to £163.00., which equates to a 230% increase.

Had this problem been addressed earlier the fee could have been increased year on year to ensure that this section of the accounts remained profitable. It seems as though we are being asked for more money just to balance the books, placing this burden on the current licence holders, taking no account of the Private Hire Operators who have ceased trading in the last 5 years

We note that other local councils do not feel the necessity to charge such high fees, for example :-

South Oxfordshire	£55.00.
Wiltshire	£85.00.
Test Valley	£77.00.

Presumably their books balance!

We feel that, had the full details of the proposal been available to us before the Meeting of the Council, then we could have made constructive comments on the proposal and the swingeing increase, which is not very helpful, considering the current downturn in business.

All Parliamentary Parties agree that we are still recovering from a recession, so why does this Council consider it reasonable and moral to impose this ludicrously excessive increase with no proven justification. The Association feeling that this proposal should be challenged, because having taken this action once, what's to stop the Council doing it again.

Yours faithfully



~~Keith Jenn~~
Chairperson of the West Berkshire Executive Hire Association.