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Licensing Committee

Tuesday, 17th October, 2023

6.00 pm

Conference Room 1, Blackburn Town Hall

AGENDA

1. **Welcome & Apologies**
2. **Minutes of the Previous Meeting**
Tuesday 18th July **2 - 3**
3. **Declaration of Interest**
4. **Review of HC/PH fees and charges**
Review of HC/PH fees and charges **4 - 9**
Appendix 1
5. **Update on the work of the Public Protection Service**
Update on the work of the Public Protection Service **10 - 12**

PART 2 - THE PRESS AND PUBLIC MAY BE EXCLUDED DURING CONSIDERATION OF THE FOLLOWING ITEMS

6. **Minutes of Licensing Committee**
Tuesday, 16 May 2023 - GLSC **13 - 22**
Tuesday 11th July
Tuesday, 15th August 2023 - GLSC
Tuesday, 12th September 2023 - GLSC

Date Published: Monday, 09 October 2023
Denise Park, Chief Executive

Public Document Pack **Agenda Item 2**
LICENSING COMMITTEE
Tuesday, 18 July 2023

PRESENT – Councillors, , Imtiaz, Casey, Gee, Taylor, Fazal, Gibson, Hardman, Hussain and Russell.

OFFICERS – Tayyab Mulla (Governance Officer), Shelagh Lyth (Principle Solicitor), Niky Barrett (Principle Officer) , Denise Andrews (Licensing Manager)

RESOLUTIONS

17 Welcome & Apologies

The Chair welcomed everyone to the meeting of the Licensing Committee.

18 Minutes of the Previous Meeting

RESOLVED - The Minutes of the previous meeting held on Tuesday 24th January 2023 were approved as a correct record.

19 Declaration of Interest

There were no Declaration of Interests.

20 Update on the work of Public Protection & Environmental Health Service

The Principle Licensing Officer had provided an update to the committee on the work of the Councils Public Protection and Environmental Health Service (PPS) where there was a connection with businesses and persons who required a licence from the Council. It also provided an update for members on national policy changes and proposals affecting licensing work.

RESOLVED – The Members noted the report

PART II - THE PRESS AND THE PUBLIC MAY BE EXCLUDED DURING CONSIDERATION OF THE FOLLOWING ITEMS

RESOLVED – That the press and public be excluded from the meeting during consideration of the following items in view of the fact that the business to be transacted was exempt by virtue of Paragraph 3 of Part 1 contained in Schedule 12A of the Local Government Act 1972.

21 Licensing Act Training

The Principle Licensing Officer had provided training to the Committee Members on The Licensing Act.

This training had informed the members on the Licensing Act and explained the responsibilities for members when sitting on Licensing Act Sub-Committee panels.

RESOLVED – The training was noted.

22 **Minutes of Licensing Committee**

The Committee received the proceedings of the following Sub Committees:

- General Licensing Sub Committee held on 17th January 2023
- General Licensing Sub Committee held on 14th February 2023
- General Licensing Sub Committee held on 16th May 2023
- Licensing Act Sub Committee held on 13th June 2023

RESOLVED – That the proceedings of the Sub Committees as outlined above were approved as a correct record and were duly signed by the Chair.

Signed:

Date:

Chair of the meeting
at which the minutes were confirmed

Agenda Item 4

DEPARTMENT OF ENVIRONMENT AND LEISURE

ORIGINATING SECTION: PUBLIC PROTECTION SERVICE

REPORT TO: LICENSING COMMITTEE

Date: 17.10.23

TITLE: Review of discretionary fee level for private hire and hackney carriage drivers, vehicles and operators

1	<u>PURPOSE OF REPORT</u>
1.1	For members to consider the review of the fees and agree the level of discretionary fees to be charged from 1 st January 2024.
2	<u>RECOMMENDATION</u>
2.1	That the proposed fees and charges set out in Appendix 1 be implemented from 1 January 2024.
2.2	The Principal Licensing Officer make arrangements to place a public notice in the press in respect of the proposed fees for licensed vehicles and private hire operators, in accordance with s.70 of the Local Government (Miscellaneous Provisions) Act 1976.
2.3	That the current option for drivers to apply for a one year HC/PHV dual driver's licences be withdrawn, subject to officers retaining the discretion to issue a one year licence on a case by case basis, as they think appropriate in the circumstances of the case.
3	<u>BACKGROUND</u>
3.1	Blackburn with Darwen Council has a statutory responsibility for the administration of a wide range of licences, permits, registrations and consents and the regulation of those authorised to carry on licensable activities.
3.2	In many cases, legislation provides a discretion for the council to set licence fees to recoup the costs of administering individual licensing regimes. The basis of setting such fees is generally to achieve cost recovery.
3.3	The review has been undertaken in accordance with the Local Government Association's 'Open for business' guidance on locally set licence fees, which incorporates the principles in the 2006/123 EU Services Directive, that provide that "any charges which the applicant may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures and shall not exceed the cost of the procedures".
3.4	Case law has confirmed that fees may reflect administrative and compliance costs, including that in respect of licensed drivers, but may not include the costs of enforcement action against unlicensed drivers.

3.5	Regard has also been had to relevant case law and in particular R (on the application of Abdul Rehman, on behalf of the Wakefield District Hackney Carriage and Private Hire Association) v The Council of the City of Wakefield and The Local Government Association (Intervening) [2019] EWCA Civ 2166.
3.6	A number of councils have been challenged on their fee levels and the work undertaken this year provides a sound evidence base to justify the fees recommended.
4	<p><u>DETAIL</u></p> <p>4.1 Fees were last comprehensively reviewed in 2015 and there have been a number of local authority pay awards and service restructures since that time which have all impacted on the costs to the authority of providing the taxi licensing service.</p> <p>4.2 The service has also had to incorporate a number of changes to driver and vehicle requirements as required by new legislation and the introduction of the Government's Statutory Standards for Private Hire and Hackney Carriage Licensing.</p> <p>4.3 Wherever possible administrative processes have been streamlined to produce efficiencies to offset these increased costs, but it has not been possible to offset all of them and some fee increases are necessary.</p> <p>4.4 Detailed process maps have been produced that reflect the licensing processes, the resources and the time involved in administering each type of licence. The costs involved have been quantified with the help of the council's finance officers.</p> <p>4.5 Officers have also considered the proposals against the fees charged by licensing authorities in east Lancashire and found them to be broadly consistent for driver and vehicle licences.</p> <p>4.6 Members are reminded however, that these licence fees must be set at a level that reflects the actual costs to the council, and that other local authorities may resource their licensing service differently and have different application processes.</p> <p>4.7 HC/PH Dual Driver Licences</p> <p>The application process for driver licences has changed substantially in the past eighteen months in terms of the number of checks that officers must undertake before approving licence applications, and continue to undertake throughout the licensed period. These include new checks with the Home Office and HMRC, additional competency requirements for applicants and an increase in the frequency of DBS checks required.</p> <p>Historically the council has charged a single fee for driver licences irrespective of whether it was a new or renewal application, but the number of background checks that officers must now complete for new drivers, means that the time to process these applications is significantly more than renewals. A separate fee has therefore been calculated that properly reflects these increased costs.</p> <p>Section 51 (1) of the Local Government (Miscellaneous Provisions) Act 1976 states that licences shall remain in force for three years, but does provide for Licensing Authorities to issue licences for a lesser period as it thinks appropriate</p>

in the circumstances of the case, and the council has invited drivers to apply for either a one year or a three year licence.

There are currently around twelve hundred valid driver licences in circulation. The service does encourage drivers to apply for three year licences, but there is still a proportion who opt for a one year licence each year. This impacts directly on resources as the service is currently processing around 25% more drivers applications each year than it would need to if the one year option was removed. It should also be noted that the fees currently paid by drivers opting for three one year licences amounts to £60 more than the cost of a three year licence.

The proposed fees mean the cost of three one year licences would be £152 more than the three year renewal fee proposed, as almost half of driver licence fees arise from the costs of processing the applications.

Following the introduction of online applications earlier this year new applicants are only able to apply for three year licences. It is now proposed that the option for existing drivers to renew their licences for a year at a time be removed, but allow officers full discretion to consider requests for shorter licences on a case by case basis.

The fee for the driver training session has been increased to reflect the threefold increase in new applicants booking onto these sessions, which now necessitates two officers being in attendance and increased venue costs.

Until this year, driver training sessions were provided once a month for up to ten candidates and that figure included those candidates who joined the session after the training element was complete, just to re-sit the test.

The demand for driver training is so high this year, that each session is now being delivered to around thirty candidates, and so completely separate sessions are necessary for those candidates needing to re-sit the exam. This has resulted in a much higher increase in fees for resits.

The Licensing Service implemented the Government's requirement for all new drivers to be proficient in English earlier this year. Applicants who do not hold any formal qualifications in English but are able to pass the skills assessment provided by the Council's adult learning service may continue with their application.

The assessments are provided free of charge by adult learning for residents of the Borough and the licensing service is currently covering the cost for out of Borough applicants. The £25 cost is included in the fee review for those new applicants who are not resident in the Borough and who have no formal English qualifications.

4.8 **Hackney Carriage and Private Hire vehicle licences.**

Recent changes to the testing frequencies mean that from 1 May 2023, vehicles which are under five years at the time of application, are eligible for a one year licence (approx. 5% of the licensed fleet) and those aged five or above, are eligible for a six month licence if they pass the council's taxi test.

Changes were also brought in at that time to offer two free additional months on the licence for any vehicle aged over five years that passed the MOT element of the test on first presentation. This was introduced to encourage vehicle proprietors

to maintain older vehicles, in response to the very poor statistics that showed that between 70% and 75% of vehicles were failing the test.

Despite increases in staffing costs and the new requirement to provide statutory returns about vehicle licences to the Government on a weekly basis, efficiencies in the licensing process for vehicles have resulted in the fees proposed for six month vehicle licences remaining almost unchanged and the fee for a twelve month licence being reduced by almost a quarter.

The council does not currently charge applicants for new vehicle licences for the plate for life that is issued, but it does charge £25 for all replacement plates produced.

It is proposed that the £25 fee is charged for new plates in addition to replacement ones, as these costs have now been removed from the licence fee calculations in order to minimise the fee increases for the majority of vehicle licence applicants who do not require a plate.

The cost to the council of the adhesive private hire door stickers has increased significantly which now necessitates an increase from £6.50 per pair to £10 per pair.

The council will continue to offer a 20% licence fee reduction for hybrid vehicles but it is proposed to double the subsidy for electric vehicles to 40% to further support the Council's climate change agenda by rewarding drivers who invest in greener vehicles.

4.9 **Private Hire Operators**

It is proposed that the existing eight fee bands are reduced to four, to simplify the process for operators and to remove some of the artificial caps on their operation sizes that the current fee bands create.

The proposals are to create four fee bands:- a single vehicle operation; a small operation of up to 5 vehicles; a medium sized operation of up to 30 vehicles which encompasses 3 of the current bands and a large operation for over 30 vehicles.

The fees have been set at a level that reflects the average amount of proactive and reactive work undertaken by the service each year regulating private hire operations.

Whilst the legislation provides for every licence granted to a Private Hire Operator to remain in force for five years or for such lesser period as the district council think appropriate in the circumstances of the case, around two thirds of Blackburn with Darwen Operators choose to renew their licences on an annual basis.

This costs the trade more than the equivalent five year licence, but it is not proposed to remove the one year option as part of this review, as the number of additional applications generated is manageable.

5	<u>CONSULTATION</u>
5.1	Section 70(3) of the Local Government (Miscellaneous Provisions) Act 1976 requires the Licensing Authority to place a public notice in at least one local newspaper in respect of the proposal to vary the fees for licensed vehicles and private hire operators at least twenty-eight days before the new fee levels are to be implemented, if the fee for those licences exceeds £25.00.
5.2	If there are any objections to the proposal to vary the vehicle or operator fees, the council must set a further date, not later than 2 months after the first specified date, for the new fees to come into force either with or without modification as decided by the council after considering any objections.
5.3	There is no requirement in the legislation to consult on the fee level for driver licences.
6	<u>POLICY CONSIDERATIONS</u>
	Section 8 of the council's Hackney Carriage and Private Hire Licensing Policy indicates that fees for taxi and private hire licensing will be regularly reviewed.
7	<u>LEGAL IMPLICATIONS ARISING FROM THE REPORT</u>
	Fees must be set in accordance with the requirements of the relevant legislation and the 2006 EU Directive. There is a risk of challenge by way of Judicial Review in cases where fees are set at an unreasonable or unlawful level.
8	<u>BACKGROUND PAPERS</u>
	Process maps Local Government (Miscellaneous Provisions) Act 1976
9	<u>CONTACT OFFICER</u>
	Niky Barrett, Principal Licensing Officer – 01254 585585
10	<u>DATE PREPARED</u>
	5 October 2023

Appendix 1

Drivers	Current charge	Proposed charge
3 year New Driver	£192	£238
3 Year Renewal	£192	£220
1 Year Renewal	£84	£124
Driver Training	£70	£87
Retest	£17	£45
English skills assessment (Non BwD applicants)	New fee	£25
Replacement Badge	£16	£17
Temp badge	Not charged	£17
Vehicles		
6 month HCV	£96.75	£97
12 month HCV	£193.75	£149
HC Unmet Demand Survey £37	No UMD fee 23/24	
6 month PHV	£95.25	£97
12 month PHV	£181.25	£149
Plate	£25.00	£25.00
Door Stickers (pair)	£6.50	£10.00
Transfer of vehicle ownership	£16.00	£16.00
Replacement vehicle/driver licence	£16.00	£16.00
Operators	1 year	5 year
Single vehicle PHO	£220	£419
Small PHO (up to 5 vehicles)	£309	£831
Medium PHO (6-30 vehicles)	£608	£2,331
Large PHO (over 30 vehicles)	£1,774	£7,193
Current PHO fees	1 year	5 year
1 vehicle	£232	£330
2 – 4 vehicles	£269	£565
5 – 10 vehicles	£380	£1,120
11 – 20 vehicles	£602	£2,230
21 – 24 vehicles	£875	£4,080
25 – 30 vehicles	£1,023	£4,820
31 – 35 vehicles	£1,212	£5,930
35 + vehicles	£1,490	£6,670

DEPARTMENT OF ENVIRONMENT AND OPERATIONS

ORIGINATING SECTION: PUBLIC PROTECTION SERVICE

REPORT TO : LICENSING COMMITTEE DATE: 17 October 2023

TITLE : Update on the work of the Public Protection and Environmental Health Service

1. PURPOSE

The purpose of this report is to provide an update on the work of the Council's Public Protection and Environmental Health Service (PPS) where there is a connection with businesses and persons who require a licence from the Council. It also provides an update for members on national policy changes and proposals affecting licencing work.

2. RECOMMENDATION

That members note the report.

3. KEY ISSUES

3.1 Revocations/refusals

In quarter 2 of 2023/24, officers revoked 1 driver's licence and suspended 2 others under delegated powers.

The General Licensing Sub-Committees considered 4 applications for new Dual Driver Licences and refused to grant all 4 of them.

The Sub-Committees also considered 4 reviews of existing driver licences and revoked 2 and required the other 2 drivers to undertake further training.

3.2 Appeal results

Since the last Licensing Committee 1 appeal against the decision the general licensing sub-committees to revoke or refuse to grant driver licences have been concluded and the Magistrates Court upheld the council's decision.

3.3 Complaints to Licensing Team

In quarter 2 2023/24, 7 complaints had been made to the Licensing Team all of which related to driver conduct.

3.4 Compliance and Licensing Meetings

Officers have re-established the formal multi-agency meetings with Police and other Responsible Authorities to ensure that resources can be prioritised and used efficiently.

3.5 Vehicle operations

Public Protection Officers also joined forces with compliance officers from Hyndburn Council and Wolverhampton City Council, the Police and DVSA to carry out vehicle checks in Accrington last month.

Five Blackburn with Darwen licensed vehicles were stopped as part of the operation, 4 of which had compliance issues that were dealt with on the night including 1 that received a prohibition notice from the DVSA for vehicle defects.

A further operation is being planned with Police as part of their road safety campaign next month.

3.6 Preparation for bonfire night

Advice and guidance about running a safe bonfire event has been sent out to a number of licensed premises and venues. It includes information from the agencies who are part of the Borough's Event Safety Advisory Committee including Fire, Ambulance and Council.

3.7 Routine work carried out

The following table provides figures on some of the key work carried out from 1 July to 30 September 2023.

	Q2 23/24
Vehicle licences processed – hackney carriage and private hire	479
Driver licences processed – new and renewal applications	87
Licensing Act licences processed These are new licences, variations to existing licences and changes to designated premises supervisor	40
Temporary Event Notices processed	30
Animal Welfare Licences processed	1
Street trader	8

3.8 National Issues

The Alcohol Licensing (Coronavirus) (Regulatory Easements) (Amendment) Regulations 2023

After consulting on the removal of the automatic right to sell alcohol for consumption 'off' the premises that was introduced by the Business & Planning Act 2020, where it wasn't already permitted under a premises licence alongside 'on-sales', the Government initially indicated that they would be removing that entitlement. However in August they announced that they would in fact be extending the relaxation. These Regulations were published and effective from 28 September 2023 and extend the off-sales regulatory easement to 31 March 2025.

Pavement café licences

Department for Levelling Up, Housing and Communities have laid the Regulations necessary to extend the Pavement Licensing regime under the Business and Planning Act 2020 for a 3rd time. Current licences must expire on 30 September 2023 at the latest, but when the amendments regulations are enacted, all new pavement café licences and

renewals issued under the Business & Planning Act 2020 will expired on 30 September 2024.

New Licensing scheme - Non-surgical cosmetic procedures

The Government is consulting on how to make non-surgical cosmetic procedures, including Botox, laser hair removal and dermal fillers, safer. The outcome of this consultation will be used to shape a new licensing scheme for practitioners and cosmetic businesses which operate in England that will fall to Local Authorities to administer.

4. POLICY IMPLICATIONS

None.

5. FINANCIAL IMPLICATIONS

None

6. LEGAL IMPLICATIONS

None

7. RESOURCE IMPLICATIONS

None

8. CONSULTATIONS

None

9. CONTACT OFFICER

Denise Andrews – Business Compliance and Licensing Manager
Telephone 01254 585585

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of the Local Government Act 1972.

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