LICENSING AND SAFETY COMMITTEE – 8 SEPTEMBER 2015

A meeting of the Licensing and Safety Committee will be held at 5.30pm on Tuesday 8 September 2015 in the Council Chamber, Town Hall, Rugby.

Adam Norburn
Executive Director

A G E N D A

PART 1 – PUBLIC BUSINESS

1. Minutes.
   To confirm the minutes of the:
   Licensing and Safety Committee held on 7 July 2015;
   Special Licensing and Safety Committee held on 27 July 2015; and
   Licensing Sub-Committee (Alcohol and Regulated Entertainment) held on 20 August 2015.

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.
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.


5. Update on Deregulation – to receive a verbal report from the Public Health and Licensing Team Leader.

6. Motion to Exclude the Public under Section 100(A)(4) of the Local Government Act 1972.

To consider passing the following resolution:-

That under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following items on the grounds that they involves the likely disclosure of information defined in paragraphs 1, 2 and 3 of Schedule 12A of the Act.

PART 2 – EXEMPT INFORMATION

1. Application for the grant of a Dual Driver’s Licence.

Any additional papers for this meeting can be accessed here via the website.

The Reports of Officers (Ref. LSC 2015/16-04) are attached.

Membership of the Committee: Councillors Miss Lawrence (Chairman), Mrs A’ Barrow, Mrs Avis, Birkett, Mrs Bragg, Cade, Dodd, Mrs Garcia, Mrs Nash, Mrs Roberts, Mrs Roodhouse, Mrs Simpson-Vince, Srivastava, Ms Watson-Merret and Dr Williams.

If you have any general queries with regard to this agenda please contact Linn Ashmore, Democratic and Scrutiny Services Officer (01788 533523 or e-mail Linn.Ashmore@rugby.gov.uk). Any specific queries concerning reports should be directed to the listed contact officer.

If you wish to attend the meeting and have any special requirements for access please contact the Democratic and Scrutiny Services Officer named above.
Name of Meeting: Licensing and Safety Committee

Date of Meeting: 8 September 2015

Report Title: Review of Taxi Licence fees for Dual Driver and Private Hire Operator Licences

Portfolio: Sustainable Environment

Ward Relevance: All

Prior Consultation: N/A

Contact Officer: Joe Collins, Team leader, Public Health and Licensing. Ext 3667.

Report Subject to Call-in: N/A

Report En-Bloc: N/A

Forward Plan: N/A

Corporate Priorities: Enable our residents, visitors and enterprises to enjoy, achieve and prosper.


Summary: Committee considered a report on setting Taxi Licence fees at the Committee on the 7 July 2015, and agreed that the proposed fees could go out for consultation with the taxi trade and their representatives.
The proposed fees have been advertised in a local newspaper, as required by Legislation, and been on public display in the town hall. They have also been advertised on the Council website. A letter has also been sent to representatives of the local taxi trade and to all vehicle proprietors, licensed dual drivers and private hire operators, to advise them of the new fees and request any responses in writing. The consultation period has now ended and Committee have to consider the new fees and any responses, before advising the Head of environmental services. He will make the final decision on the level of fees, and when they come into force.

**Risk Management Implications**

It is important that fees charged, cover the costs incurred by the Council in administering and issuing these licences. If the fees are set too low, the Council general fund would have to be used to subsidise the service. This could lead to a deficit, in the funds.

**Financial Implications**

With the licences being set for longer periods, there could be a reduction in income from taxi licensing income. Any increase in fees can be challenged and must be able to be subject to audit.

**Environmental Implications**

N/A

**Legal Implications**

Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 stipulate what can be charged for in respect of fees. Section 70 outlines the legal process that has to be followed when increasing fees for vehicle and operator licences. The Taxi Trade can ask for a Judicial Review of the Council decision, if it does not follow the set legal process for raising fees, set out in the legislation.

**Equality and Diversity**

N/A
**Options**

1. Committee consider the written response to the Consultation for revised dual driver and private hire operator licence fees, and advise the Head of Environmental Services, who is responsible for setting licence fees.

**Recommendation**

Committee note the written response to the Consultation for revised dual driver and private hire operator licence fees and authorise the Head of Environmental Services, who is responsible for setting licence fees, to finalise the process.

**Reasons for Recommendation**

The Deregulation Act 2015 has now introduced longer periods for Dual Driver and Private Hire Operator licences, and the Council has to decide what level of fee should be charged for these licences. Taxi Licensing fees have been set at the current levels for a number of years, and aspects of licence processing have changed. These have changed the costs incurred by Councils, so the fees have to be changed.
Agenda No 4

Licensing and Safety Committee – 8 September 2015

Review of Taxi Licence fees for Dual Driver and Private Hire Operator Licences

Report of the Head of Environmental Services

Recommendation:
Committee note the written response to the Consultation for revised dual driver and private hire operator licence fees and authorise the Head of Environmental Services, who is responsible for setting licence fees, to finalise the process.

1. Background.

Rugby Borough Council is a Licensing Authority for Taxi Licensing and issues licences for Dual Driver, Private Hire Operator and Proprietor licences.

It charges fees for issue and administration of these licences, to cover the costs of providing the service.

A report was brought to this Committee on the 7 July 2015, to consider proposed revised taxi licence fees. These are attached as appendix 1.

Committee agreed that the proposed fees could go out to the local taxi trade and their representatives, for a consultation period, and that a report would be brought back to Committee.

2. Consultation.

The proposed taxi licence fees have been published in a local newspaper, The Rugby Review, on the 16th July 2015, as required by legislation and the fees have also been on public display at the Town Hall.

The consultation period ended on the 14th August 2015.

The advert stated that the new fees would come into force on the 30th September 2015, if no objections have been received.

The proposed fees have also been in the consultations section of the Council web site.
A letter was sent to the Secretary of the local taxi association, RHODA, and to all licensed dual driver, taxi vehicle proprietors and private hire operators, to advise of the new fees and invite written representations to the Council about them.

The taxi trade were advised of the proposed fees and discussed it at the recent Taxi Forum meeting on the 28th July 2015.

3. Responses.

The Council has only received one written response to the Consultation on the proposed taxi licence fees.

This was received by email from Mr Mark Bradshaw, Chairman of the local taxi association, RHODA, and was sent to David Burrows on 12th August 2015

The email and relevant sections is attached as Appendix 2, with officer comments in italics.

Some of his comments could be construed as objections to the proposed fees.

If there are any written objections to the proposed fees, they have to be given due consideration, and for Committee to decide if they have any effect on the fees proposed.

Committee have to advise the Head of Environmental Services of their decision, as he is responsible for setting fees and makes the final decision.

Section 70 of the Local Government (Miscellaneous Provisions) act 1976, states that this has to be within two months of the initial date the fees were due to come into force, which was the 30th September 2015.

The Head of Environmental services could determine that the proposed fees come into force on the 1st October 2015, as that is within that period.
Name of Meeting: Licensing and Safety Committee

Date of Meeting: 8 September 2015

Subject Matter: Review of Taxi Licence fees for Dual Driver and Private Hire Operator Licences

Originating Department: Environmental Services.

LIST OF BACKGROUND PAPERS

<table>
<thead>
<tr>
<th>Document No.</th>
<th>Date</th>
<th>Description of Document</th>
<th>Officer’s Reference</th>
<th>File Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.</td>
<td></td>
<td>Deregulation Act 2015.</td>
<td>JCS</td>
<td></td>
</tr>
</tbody>
</table>
Report to Licensing and Safety Committee- 8 September 2015

Review of Taxi Licence fees

Dual Driver and Private Hire Operator Licences

Table showing proposed licence fee changes.

<table>
<thead>
<tr>
<th>Type of licence</th>
<th>Existing fee (£)</th>
<th>Proposed fee (£)</th>
<th>comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dual driver. new application</td>
<td>80.00</td>
<td>370.00</td>
<td>The fee includes the driver badge. The existing licence fee is only for one year. The proposed fee is for a 3 year licence. N.B. the fees for DBS, DVLA mandate, Knowledge test and English Comprehension test are not included. The applicant will also have to pay for a medical and to take the DVSA taxi driver test.</td>
</tr>
<tr>
<td>Dual driver. renewal</td>
<td>80.00</td>
<td>220.00</td>
<td>As above apart from knowledge test, English comprehension test and DVSA taxi driver test.</td>
</tr>
<tr>
<td>Private Hire Operator. New</td>
<td>60.00</td>
<td>380.00 for 1-4 vehicles. 680.00 for 5-10 Vehicles. 974.00 for more than 10 vehicles.</td>
<td>The existing licence fee is only for one year. The existing Operator fee depends on how many vehicles, they will be using. The proposed fee will be for a 5 year licence, and will also depend on how many vehicles they will be using.</td>
</tr>
<tr>
<td>Private Hire Operator. Renewal.</td>
<td>60.00</td>
<td>344.00 for 1-4 vehicles. 642.00 for 5-10 vehicles.</td>
<td>As above.</td>
</tr>
</tbody>
</table>

APPENDIX 1
<table>
<thead>
<tr>
<th>Service Description</th>
<th>Price 1</th>
<th>Price 2</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vehicle Proprietor licence (Hackney Carriage or Private Hire Vehicle)</td>
<td>145.00</td>
<td>145.00</td>
<td>For both hackney carriages and private hire vehicles. This is an annual fee, as the licence is only for one year</td>
</tr>
<tr>
<td>Transfer of vehicle licence</td>
<td>12.50</td>
<td>12.50</td>
<td>For all licensed vehicles.</td>
</tr>
<tr>
<td>Replacement plates</td>
<td>34.00</td>
<td>34.00</td>
<td>As above</td>
</tr>
<tr>
<td>DVLA check.</td>
<td>10.00</td>
<td>10.00</td>
<td>For drivers</td>
</tr>
<tr>
<td>DBS check</td>
<td>44.00</td>
<td>44.00</td>
<td>For drivers</td>
</tr>
<tr>
<td>Chequered stripes</td>
<td>20.00</td>
<td>20.00</td>
<td>Per set for hackney carriage.</td>
</tr>
<tr>
<td>Vehicle plates. Refundable deposit.</td>
<td>120.00</td>
<td>120.00</td>
<td>For private hire vehicles only. This is refunded to the vehicle proprietor, when they surrender the licence and plate to the Council</td>
</tr>
<tr>
<td>Comprehension Test</td>
<td>5.00</td>
<td>5.00</td>
<td>Test is for new driver licence applicants. It is run by the adult and community learning team (ACL) who take the fee</td>
</tr>
<tr>
<td>Local Knowledge Test</td>
<td>30.00</td>
<td>30.00</td>
<td>For new driver licence applicants</td>
</tr>
<tr>
<td>Vehicle Safety Check (Council’s Work Services Unit)</td>
<td>35.00</td>
<td>40.00</td>
<td>For all licensed vehicles. Works services have done a costing exercise, as the fee has been the same for some years. They consider it should be increased to cover costs</td>
</tr>
</tbody>
</table>
Mark

Thank you for the lengthy discussion yesterday evening where we exchanged a few practical ideas regarding this, and as discussed I have copied this to Cllr Lawrence and Cllr Garcia, as Chair and Deputy Chair of Licensing and Safety Committee, and Grev Mills as Secretary of RHODA.

As explained, there has been a lot of work over the summer to meet recent case law, best practice and legal changes, but there is still time to comment on these issues, as we welcome and need feedback from the trade to ensure the policies are well balanced and as much as possible support business. However, as you know our primary responsibility is still public protection.

Attached are the copies of the sheets we used to determine the licence costs. We still need to complete the work for vehicle licensing.

We currently have 2 consultations. The first is regarding new fees, though this process legally requires an advert to be published (which it has been) and then for Committee to consider any comments. The second is the consultation on EU drivers and if to require them to have a UK drivers licence.

I have commented on your individual comments. If you have any further questions please let me know.

If acceptable, we will edit these and include them in the comments presented to Committee when they consider these issues.

Thank you.

David Burrows
Regulatory Services Manager
Rugby Borough Council
01788 533806
Your letter dated 17 July 2015 refers. These are my personal comments. I understand Grev Mills will be responding on behalf of RHODA.

1. Changes to taxi licensing laws

RHODA have been asking the council to provide a breakdown of the taxi licensing fees on the basis that RBC is supposed to be accountable for how it spends our money. This has never been forthcoming, so I am interested to know how the new fees have been calculated. I would like a breakdown of where this figure has come from please.

Our accounts have always been available and at least one member of RHODA has regularly used freedom of information legislation to access information. What is different now is that case law from Hemmings v Westminster (a case about unlicensed sex establishments that has now gone to the Supreme Court) and experience of other local authorities regarding best practice means that we now have a better idea of what costs can be recovered and how the costs accounting should happen. We have trialled the new spreadsheets and they are attached. We still need to complete it for vehicles, but the changes in the Deregulation Act 2015 to the length of driver licenses and operator licences has meant we have had to publish then sooner than anticipated.

The new fees overall are somewhere between £90 - £130 more expensive than if renewals were done on an annual basis as they are now. Considering that your administration will be cut by a third, how can you justify such an increase?

If you look at the attached spreadsheets you will see how costs are justified. These will be reviewed annually, with an intention in line with national best practice, of reviewing published fees every 3 years. Overall, we do not agree with view of the £90 - £130 increase. Some fees are lower per year (e.g. the driver renewal for 3 years, operator licences) and others are more expensive, e.g. new applicants. The costs have been based on current costs plus predicated costs based on the changes in legislation and the move to more compliance inspections.

Because the new fees are quite high, many owners/drivers will struggle to come up with such sums. Has provision been made for them to pay by instalments rather than a lump sum?

No. This was also mentioned by another driver, and a driver at the Rugby Taxi Forum who intends to retire in 1 year so does not want a 3 year licence. The change in period of licence has been introduced by the Deregulation Act 2015 as part of the ‘Red tape’ challenge, but does not appear to have considered that it may increase regulation and initial cost for drivers. The legislation requires payment of the fee when issued, so instalments may be unlawful (unless they paid the first fee then paid monthly instalments to be used when the next fee is payable). The law does allow shorter period licences for exception circumstances, but that would be at the discretion of the Committee, not officers. The initial view of the Committee is they are likely to be sympathetic to applicants with good reasons, e.g. only wanting a licence for a year because they are retiring. As an exception, it is difficult to set a fee, but the simplest way is likely to be to multiply the 3 year fee x (the length of the licence/3).
Looking at the costs for a new driver to enter the taxi trade in Rugby, it will be costing around £700 for RBC’s fees alone (including all tests, checks etc) plus drivers usually require between 6 - 10 driving lessons (at £25 each) to get them through the DSA test. That puts the total cost of getting a taxi licence in Rugby at close to £1000 - a massive dis-incentive for people to come into the trade and almost impossible for most unemployed people. I consider it completely unreasonable and cannot think of many other jobs where such expenses have to be incurred before starting work. Does RBC intend to introduce any grants to assist people with these costs? Has RBC considered giving new-to-the trade drivers a ‘probationary’ licence for one year at a lower cost, and then, providing they have shown themselves to be fit and proper during that year, to renew for three years?

The latest best practice and legal guidance is that local authorities can recover costs, but they should not cross-subsidise, e.g. driver application costs set the application fee, driver renewal costs set the renewal fee. New driver applications often involve a lot of work and consideration by the Committee due to their criminal convictions and driving offences. The Council has no plans for any grants, which would have to come out of general council funds and at a time of austerity, is unlikely to be approved. Probationary licences would still require the same amount of work, as a licence could not be issued until they are determined to be ‘fit and proper’, and arguably more as they would have to be reviewed at the end of the year. It is also unclear if a one year licence applied to all would be legal under the Deregulation Act 2015.

While officers do understand this is likely to be a significant barrier to getting a licence, the Council is required to act within the legislation. It is understood the Law Commission review is likely to be considered by the government during this parliament, so that may be the trade’s opportunity to change this.

Under present rules, RBC is not able to use licensing fees towards the costs of enforcement. You mention towards the end of para 1 that reduced admin costs will allow officers to carry out more ‘compliance’ visits. What is the difference between ‘compliance’ and ‘enforcement’?

This has always been a grey area of the legislation. Compliance has been seen as proactive, e.g. arranging routine inspections, while enforcement has been considered to be the action taken when a complaint is made. Hemmings v Westminster has helped to clarify this, and compliance is routine inspections, but also responses to complaints which are relevant to the person’s or vehicle’s licence. Enforcement is now considered action against those who do not have licences, e.g. stopping vehicles suspected of being unlicensed, or outside their licence conditions or policy. However, Hemmings v Westminster has now gone further in that it has over-ruled an earlier decision that enforcement costs could not be recovered from licences. With the change in periods of licences the Council intends to use the reduced administration time for more proactive compliance inspections, which the need for has often been suggested at the Rugby Taxi Forum meetings.