

LICENSING COMMITTEE

Date: Tuesday 7 February 2017
Time: 5.30 pm
Venue: Rennes Room, Civic Centre, Paris Street, Exeter

Members are invited to attend the above meeting to consider the items of business.

If you have an enquiry regarding any items on this agenda, please contact Mark Devin, Democratic Services Officer (Committees) on 01392 265477 or email mark.devin@exeter.gov.uk

Entry to the Civic Centre can be gained through the Customer Services Centre, Paris Street.

Membership -

Councillors Spackman (Chair), Sheldon (Deputy Chair), Branston, Brimble, Foale, Hannan, D Henson, Holland, Keen, Mitchell, Newby, Owen, Pearson and Sills

Agenda

Part I: Items suggested for discussion with the press and public present

1 Apologies

To receive apologies from Committee members.

2 Minutes

To sign the minutes of the meeting held on 1 November 2016.

3 Declarations of Interest

Councillors are reminded of the need to declare any disclosable pecuniary interests that relate to business on the agenda and which have not already been included in the register of interests, before any discussion takes place on the item. Unless the interest is sensitive, you must also disclose the nature of the interest. In accordance with the Council's Code of Conduct, you must then leave the room and must not participate in any further discussion of the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

4 Local Government (Access to Information) Act 1985 - Exclusion of Press and Public

It is not considered that the Committee would be likely to exclude the press and public during the consideration of any of the items on this agenda but, if it should

wish to do so, then the following resolution should be passed: -

RECOMMENDED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for particular item(s) on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in the relevant paragraphs of Part I of Schedule 12A of the Act.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

5 Licensing Fees and Charges

To consider the report of the Assistant Director Environment.

(Pages 3 -
12)

6 Amendments to the Policy relating to Practices and Procedures for the Control of Hackney Carriage and Private Hire Vehicles, Drivers and Operators

To consider the report of the Assistant Director Environment.

(Pages 13
- 22)

Individual reports on this agenda can be produced in large print on request to Democratic Services (Committees) on 01392 265107.

REPORT TO LICENSING COMMITTEE

Date of Meeting: 07 February 2017

Report of: Environmental Health and Licensing Manager

Title: Licensing Fees and Charges

Is this a Key Decision?

No

* One that affects finances over £1m or significantly affects two or more wards. If this is a key decision then the item must be on the appropriate forward plan of key decisions.

Is this an Executive or Council Function?

Licensing is a Council function delegated to the Licensing Committee

1. What is the report about?

1.1 The purpose of this report is to establish the licensing fees and charges that should apply for 2017/18, for those activities where the Council has discretion.

2. Recommendations:

2.1 For the period from 1 April 2017 to 31 March 2018 it is recommended that the Licensing Committee set the fees as contained in Appendix B

3. Reasons for the recommendation:

3.1 The statutory principle in relation to the setting of fees is that they should be reasonable and should relate to the costs of performing the function, including staffing, administration, testing, inspections, hearings, regulation and appeals.

4. What are the resource implications including non financial resources.

4.1 If there is no increase in fees there is a risk that the Council will not recover all of the costs for services or activities for which it is permitted to charge and increase the burden on the Council's general fund.

4.2 There will be a cost in adoption of fees, as some will require public notice to be given. However this cost will be met from the existing budgetary provision.

5. Section 151 Officer comments:

5.1 The proposed fees and charges have been included in the budget for Licensing for 2017-18.

6. What are the legal aspects?

6.1 The Licensing Committee's responsibilities are set out in the Council's Constitution and include setting a reviewing licensing fees other than those set by statute.

6.2 Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 permits a local authority to charge fees for any reasonable administrative or other costs in connection with the control and supervision of hackney carriage and private hire vehicles.

6.3 The European Services Directive (2006/123/EC) came into force in December 2009 and states that charges incurred by applicants under an authorisation scheme “must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities” (effectively the costs to administer the process).

7. Monitoring Officer’s comments:

This report raises no issues for the Monitoring Officer.

8. Report details:

8.1 Exeter City Council has statutory responsibility for the administration and enforcement of a wide range of licences, registrations and permits. Many of these schemes allow the Council to charge a fee, payable by an applicant for a licence, in order to cover the costs (or a proportion thereof) of the administration of those licence types. In some cases, costs are also permitted to cover other aspects of providing the regulatory scheme.

8.2 The basis in setting such fees is generally to ensure full cost recovery, or as close to it as possible. Numerous legal cases over the years have confirmed that licensing fees may not be used to generate a profit for councils, and that fees should be reviewed annually to ensure that neither a significant surplus nor deficit is created. Surpluses or deficits may be carried forward to future years to be redistributed or recouped, as applicable.

8.3 Many licensing schemes fall within the definition of ‘services’, under the EU Services Directive, as incorporated by the Provision of Services Regulations 2009. For such schemes, fees and charges must “*be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities*”. This principle was affirmed by the courts in *R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council*. Fees must reflect administrative, policy and compliance costs, but cannot include the costs of enforcement action against unlicensed operators.

8.4 Appendix A summarises the Council’s powers to set its fees in respect of licensing applications, and any limitations on those powers.

8.5 A notice of any variation to vehicles and operator’s licence fees will be advertised in a local paper and will be deposited at the council offices for a period of 28 days. Any objections received within 28 days of publication of the notice and not withdrawn will be considered at a meeting of the Licensing Committee in March 2016. If there are no objections to the variation in fees they will come into effect on 1 April 2016.

9. How does the decision contribute to the Council’s Corporate Plan?

9.1 The appropriate setting of Licensing Fees will contribute to a healthy and safe city, and lend support to a robust, business friendly economy.

10. What risks are there and how can they be reduced?

10.1 The proposed fees have been calculated on a cost recovery basis, and projections show that if the revised fees are adopted the costs of administering licensing schemes should be recovered.

11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

11.1 Formulating a licensing fee structure that supports a strong licensing regime and recognises the key aims of the council will lead to a positive impact in creating a vibrant city to live, work and visit.

11.2 There are no identified equality concerns arising from this report.

12. Are there any other options?

12.1 The Licensing Committee could decided to maintain fees and charges at the 2016/17 levels, however the service would not be recovering the full cost incurred to the authority for delivering the individual licence areas.

Assistant Director Environment

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

The Gambling Act 2005.
Guidance issued under Section 25 of the Gambling Act 2005
The Police Reform and Social Responsibility Act 2011
The Licensing Act 2003
Guidance issued under Section 182 of the Licensing Act 2003
Local Government (Miscellaneous Provisions) Act 1982
Local Government (Miscellaneous Provisions) Act 1976
Scrap Metal Dealers Act 2013

Contact for enquires:
Democratic Services (Committees)
Room 2.3
01392 265275

Appendix A - Summary of powers to set application fees

Section	Area	Power arises from
	General principle	Reg 18(4), Provision of Services Regulations 2009 Any charges provided for by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities.
U1, U2	Alcohol, entertainment, etc	Prescribed in regulations made by the Secretary of State under the Licensing Act 2003. Section 197A of that Act will allow licensing authorities to set fees locally on a cost-recovery basis, but is yet to be commenced.
T10	Animal boarding	s.1(2), Animal Boarding Establishments Act 1963 Fee as may be determined by LA.
T14	Dangerous wild animals	s.1(2)(e), Dangerous Wild Animals Act 1976 Sufficient to meet direct and indirect costs incurred
T13	Dog breeding	s.3A(2), Breeding of Dogs Act 1973 Reasonable costs incurred in administration and enforcement.
T11	Pet shops	s.1(2), Pet Animals Act 1951 Fee as may be determined by LA.
T12	Riding establishments	s.1(2), Riding Establishments Act 1964 Fee as may be determined by LA. Cost of veterinary inspection.
N/A	Zoos	s.15(1), Zoo Licensing Act 1981 Sufficient to cover the reasonable expenditure incurred by the authority. Special provisions for inspections, closures, and direction making.
T17	Gambling notices, premises licences	Set on a cost recovery basis by the authority, up to maximum amounts prescribed in regulations made under the Gambling Act 2005. No fee chargeable for OUN's
T16, T17	Gaming permits, lotteries	Prescribed in regulations made by the Secretary of State under the Gambling Act 2005
N/A	Charity collections	No fees chargeable
T2, T4, T7, T8	HC/PH drivers	s.53(2), Local Gov't (Misc. Provisions) Act 1976 Recovering the costs of issue and administration. Refundable if licence not granted.
T1, T3, T5, T6	HC/PH vehicles, PH operators	s.70(1), Local Gov't (Misc. Provisions) Act 1976 Sufficient to cover the cost of: inspection of vehicle for licensing purposes, providing hackney carriage stands, or other costs for administration and control/supervision of vehicles. Refundable if licence not granted. <i>Maximum fees must be advertised.</i>
N/A	Hypnosis	No fees chargeable (except by London boroughs)
T18	Scrap metal	Sch 1 para 6, Scrap Metal Dealers Act 2013 Fee set by the authority, with regard to guidance FEE-SETTING IS AN EXECUTIVE FUNCTION
T15	Sex establishments	Sch 3, para 19, Local Gov't (Misc. Pr'ns) Act 1982 Reasonable fee
T19	Skin piercing, etc	s.14(6), 15(6), Local Gov't (Misc. Pr'ns) Act 1982 Reasonable fee

Appendix B – Proposed Fees and Charges compared with existing Fees and Charges

	2016-17				2017-18			
	Fee	VAT @ 20%	Total	VAT	Fee	VAT @ 20%	Total	VAT
	£ p	£ p	£ p	Code	£ p	£ p	£ p	Code
T LICENSING FEES - GENERAL								
A NON RETURNABLE ADMINISTRATION FEE OF £50 INCLUDING VAT AT THE CURRENT RATE IS PAYABLE WITH ALL NEW APPLICATIONS (INCLUDES KNOWLEDGE TEST)								
(1) Hackney carriage								
Vehicle Licence	335.00	-	335.00	9	340.00	-	340.00	9
(2) Hackney Carriage								
Driver's Licence and Identity card - 1 year	98.00	-	98.00	9	99.00	-	99.00	9
Driver's Licence and Identity card - 3 year	233.00	-	233.00	9	235.00	-	235.00	9
(3) Private Hire Operators Licence								
per annum	110.00	-	110.00	9	112.00	-	112.00	9
5 year licence	475.00	-	475.00	9	480.00	-	480.00	9
(4) Private Hire Vehicle Licence	260.00	-	260.00	9	262.50	-	262.50	9
(5) Private Hire Drivers								
Driver's Licence and Identity card - 1 year	98.00	-	98.00	9	99.00	-	99.00	9
Driver's Licence and Identity card - 3 year	233.00	-	233.00	9	235.00	-	235.00	9
(6) Vehicle Licences and Plate - Transfer Fees	60.00	-	60.00	9	60.00	-	60.00	9
(7) Additional Knowledge Test	33.33	6.67	40.00	3	33.33	6.67	40.00	3
(8) Miscellaneous fees								
Replacement plate	30.00	-	30.00	9	30.00	-	30.00	9
Missed appointments	30.00	6.00	36.00	3	30.00	6.00	36.00	3
(9) Consents to Street Trade								
For up to 3 months	730.00	-	730.00	9	730.00	-	730.00	9
For up to 6 months	1,045.00	-	1,045.00	9	1,045.00	-	1,045.00	9
For up to 9 months	1,575.00	-	1,575.00	9	1,575.00	-	1,575.00	9
For up to 12 months	1,825.00	-	1,825.00	9	1,825.00	-	1,825.00	9
Animal Welfare								
(10) Animal Boarding Establishment								
Licence								
(a) New Licence (inclusive of vets fees)	215.00	-	215.00	9	218.00	-	218.00	9
(b) Renewal (inclusive of vets fees)	215.00	-	215.00	9	218.00	-	218.00	9
(c) Renewal (exclusive of vets fees)	85.00	-	85.00	9	86.00	-	86.00	9
(11) Pet Animals Licence								
(a) New Licence (inclusive of vets fees)	215.00	-	215.00	9	218.00	-	218.00	9
(b) Renewal (inclusive of vets fees)	215.00	-	215.00	9	218.00	-	218.00	9
(c) Renewal (exclusive of vets fees)	85.00	-	85.00	9	86.00	-	86.00	9
(12) Riding Establishments Licence								
Minimum charge (inclusive of vets fees)	495.00	-	495.00	9	500.00	-	500.00	9
per horse in excess of 10	7.25	-	7.25	9	7.25	-	7.25	9
(13) Dog Breeding Establishments Licence								
(a) New Licence (inclusive of vets fees)	215.00	-	215.00	9	218.00	-	218.00	9
(b) Renewal (inclusive of vets fees)	215.00	-	215.00	9	218.00	-	218.00	9
(c) Renewal (exclusive of vets fees)	85.00	-	85.00	9	86.00	-	86.00	9
(14) Dangerous Wild Animals Act*								
Licence Fee (inclusive of vets fees)	345.00	-	345.00	9	345.00	-	345.00	9
(15) Sex Establishments Licence	3,700.00	-	3,700.00	9	3,750.00	-	3,750.00	9

	2016-17				2017-18			
	Fee	VAT @ 20%	Total	VAT	Fee	VAT @ 20%	Total	VAT
	£ p	£ p	£ p	Code	£ p	£ p	£ p	Code
(16) Small Lotteries								
Statutory Charges								
(a) Registration	40.00	-	40.00	9	40.00	-	40.00	9
(b) Renewal	20.00	-	20.00	9	20.00	-	20.00	9
(17) Gambling Act 2005								
Statutory charges:								
(i) Bingo								
- Provisional statement	2,745.00	-	2,745.00	9	2,745.00	-	2,745.00	9
- New premises following provisional statement	1,060.00	-	1,060.00	9	1,060.00	-	1,060.00	9
- New premises without provisional statement	3,215.00	-	3,215.00	9	3,215.00	-	3,215.00	9
- Annual fee - First year only following fast track conversion	590.00	-	590.00	9	590.00	-	590.00	9
- Annual fee - other than above	765.00	-	765.00	9	765.00	-	765.00	9
- Variation	1,380.00	-	1,380.00	9	1,380.00	-	1,380.00	9
- Transfer	945.00	-	945.00	9	945.00	-	945.00	9
- Reinstatement	945.00	-	945.00	9	945.00	-	945.00	9
(ii) Adult Gaming Centre								
- Provisional statement	1,530.00	-	1,530.00	9	1,530.00	-	1,530.00	9
- New premises following provisional statement	1,178.00	-	1,178.00	9	1,178.00	-	1,178.00	9
- New premises without provisional statement	2,000.00	-	2,000.00	9	2,000.00	-	2,000.00	9
- Annual fee - First year only following fast track conversion	590.00	-	590.00	9	590.00	-	590.00	9
- Annual fee - other than above	765.00	-	765.00	9	765.00	-	765.00	9
- Variation	765.00	-	765.00	9	765.00	-	765.00	9
- Transfer	945.00	-	945.00	9	945.00	-	945.00	9
- Reinstatement	945.00	-	945.00	9	945.00	-	945.00	9
(iii) Family Entertainment Centre								
- Provisional statement	765.00	-	765.00	9	765.00	-	765.00	9
- New premises following provisional statement	1,120.00	-	1,120.00	9	1,120.00	-	1,120.00	9
- New premises without provisional statement	1,768.00	-	1,768.00	9	1,768.00	-	1,768.00	9
- Annual fee - First year only following fast track conversion	415.00	-	415.00	9	415.00	-	415.00	9
- Annual fee - other than above	590.00	-	590.00	9	590.00	-	590.00	9
- Variation	790.00	-	790.00	9	790.00	-	790.00	9
- Transfer	765.00	-	765.00	9	765.00	-	765.00	9
- Reinstatement	765.00	-	765.00	9	765.00	-	765.00	9
(iv) Betting Track								
- Provisional statement	710.00	-	710.00	9	710.00	-	710.00	9
- New premises following provisional statement	2,060.00	-	2,060.00	9	2,060.00	-	2,060.00	9
- New premises without provisional statement	2,060.00	-	2,060.00	9	2,060.00	-	2,060.00	9
- Annual fee - other than above	736.00	-	736.00	9	736.00	-	736.00	9
- Variation	1,000.00	-	1,000.00	9	1,000.00	-	1,000.00	9
- Transfer	710.00	-	710.00	9	710.00	-	710.00	9
- Reinstatement	710.00	-	710.00	9	710.00	-	710.00	9
(v) Betting Other								
- Provisional statement	2,142.00	-	2,142.00	9	2,142.00	-	2,142.00	9
- New premises following provisional statement	1,200.00	-	1,200.00	9	1,200.00	-	1,200.00	9
- New premises without provisional statement	3,000.00	-	3,000.00	9	3,000.00	-	3,000.00	9
- Annual fee - other than above	600.00	-	600.00	9	600.00	-	600.00	9
- Variation	1,075.00	-	1,075.00	9	1,075.00	-	1,075.00	9
- Transfer	860.00	-	860.00	9	860.00	-	860.00	9
- Reinstatement	860.00	-	860.00	9	860.00	-	860.00	9
(vi) Miscellaneous Premises Licence Fees:								
- Change of circumstances (statutory charge)	50.00	-	50.00	9	50.00	-	50.00	9
- Copy of Licence	27.50	-	27.50	9	27.50	-	27.50	9
(vii) Unlicensed FEC permits								
- Application fee	330.00	-	330.00	9	330.00	-	330.00	9
- Application fee - existing operator	110.00	-	110.00	9	110.00	-	110.00	9
- Renewal fee	330.00	-	330.00	9	330.00	-	330.00	9
- Change of name	27.50	-	27.50	9	27.50	-	27.50	9
- Copy of permit	15.00	-	15.00	9	15.00	-	15.00	9
- Temporary use notices				9				9
- Occasional use notices				9				9

	2016-17				2017-18			
	Fee	VAT @ 20%	Total	VAT	Fee	VAT @ 20%	Total	VAT
	£ p	£ p	£ p	Code	£ p	£ p	£ p	Code
(viii) Automatic entitlement - Alcohol Licensed Premises								
- Notification of two machines	50.00	-	50.00	9	50.00	-	50.00	9
(ix) Permit for more than two machines - Alcohol Licensed Premises								
- Application fee - existing operator	100.00	-	100.00	9	100.00	-	100.00	9
- Application fee other than as above	150.00	-	150.00	9	150.00	-	150.00	9
- Permit variation fee	100.00	-	100.00	9	100.00	-	100.00	9
- Permit transfer fee	25.00	-	25.00	9	25.00	-	25.00	9
- Annual fee	50.00	-	50.00	9	50.00	-	50.00	9
- Change of name	25.00	-	25.00	9	25.00	-	25.00	9
- Copy of permit	15.00	-	15.00	9	15.00	-	15.00	9
(x) Prize Gaming								
- Application fee	300.00	-	300.00	9	300.00	-	300.00	9
- Application fee - existing operator	100.00	-	100.00	9	100.00	-	100.00	9
- Renewal fee	300.00	-	300.00	9	300.00	-	300.00	9
- Change of name	25.00	-	25.00	9	25.00	-	25.00	9
- Copy of permit	15.00	-	15.00	9	15.00	-	15.00	9
(xi) Club Gaming and Club Machine Permits								
- Application fee - existing operator	110.00	-	110.00	9	110.00	-	110.00	9
- Application fee other than as above	220.00	-	220.00	9	220.00	-	220.00	9
- Permit variation fee	110.00	-	110.00	9	110.00	-	110.00	9
- Permit fee - fast track	110.00	-	110.00	9	110.00	-	110.00	9
- Renewal fee - other	220.00	-	220.00	9	220.00	-	220.00	9
- Annual fee	50.00	-	50.00	9	50.00	-	50.00	9
- Copy of permit	15.00	-	15.00	9	15.00	-	15.00	9
(18) Scrap Metal Licences								
- New Scrap Metal Site Licence	270.00	-	270.00	9	270.00	-	270.00	9
- New Scrap Metal Collectors Licence	128.00	-	128.00	9	128.00	-	128.00	9
- Scrap Metal Site Licence Renewal	180.00	-	180.00	9	180.00	-	180.00	9
- Scrap Metal Collectors Licence Renewal	95.00	-	95.00	9	95.00	-	95.00	9
- Vary Licence Holders Details	15.00	-	15.00	9	15.00	-	15.00	9
- Vary Licensed Sites	65.00	-	65.00	9	65.00	-	65.00	9
- Vary Site Manager	35.00	-	35.00	9	35.00	-	35.00	9
- Vary Change from Site to Collector Licence	35.00	-	35.00	9	35.00	-	35.00	9
- Vary Change from Collector to Site	120.00	-	120.00	9	120.00	-	120.00	9
(19) Control of Skin Piercing etc								
Registration Fee - premises (inc one person)	95.00	-	95.00	9	95.00	-	95.00	9
- extra person	45.00	-	45.00	9	45.00	-	45.00	9
U LICENSING FEES - LICENSING ACT 2003								
Statutory charges:								
(1) Premises Licence and Club Premises Certificates								
Grant or variation								
Band A - No rateable value up to £4,300	100.00	-	100.00	9	100.00	-	100.00	9
Band B - Rateable value £4,301 to £33,000	190.00	-	190.00	9	190.00	-	190.00	9
Band C - Rateable value £33,301 to £87,000	315.00	-	315.00	9	315.00	-	315.00	9
Band D - Rateable value £87,001 to £125,000	450.00	-	450.00	9	450.00	-	450.00	9
Band C - Rateable value £125,001 and above	635.00	-	635.00	9	635.00	-	635.00	9
Annual fee								
Band A - No rateable value up to £4,300	70.00	-	70.00	9	70.00	-	70.00	9
Band B - Rateable value £4,301 to £33,000	180.00	-	180.00	9	180.00	-	180.00	9
Band C - Rateable value £33,301 to £87,000	295.00	-	295.00	9	295.00	-	295.00	9
Band D - Rateable value £87,001 to £125,000	320.00	-	320.00	9	320.00	-	320.00	9
Band C - Rateable value £125,001 and above	350.00	-	350.00	9	350.00	-	350.00	9
* An additional fee is payable for premises exclusively or primarily carrying on the supply of alcohol for consumption on the premises for events of 5,000 or more persons.								

		2016-17				2017-18			
		Fee		VAT @ 20%		Total		VAT	
		£	p	£	p	£	p	£	p
								Code	
(2)	Other charges								
	Temporary event notice	21.00	-	21.00	9	21.00	-	21.00	9
	Theft, loss etc of premises licence or summary	10.50	-	10.50	9	10.50	-	10.50	9
	Application for provisional statement	315.00	-	315.00	9	315.00	-	315.00	9
	Notification of change of name and address	10.50	-	10.50	9	10.50	-	10.50	9
	Variation to specify individual as premises supervisor	23.00	-	23.00	9	23.00	-	23.00	9
	Transfer of premises licence	23.00	-	23.00	9	23.00	-	23.00	9
	Interim authority notice	23.00	-	23.00	9	23.00	-	23.00	9
	Theft, loss etc of certificate or summary	10.50	-	10.50	9	10.50	-	10.50	9
	Notification of change of name or alteration of club name	10.50	-	10.50	9	10.50	-	10.50	9
	Change of relevant registered address of club	10.50	-	10.50	9	10.50	-	10.50	9
	Theft, loss etc of temporary event notice	10.50	-	10.50	9	10.50	-	10.50	9
	Grant or renewal of personal licence	34.00	-	34.00	9	34.00	-	34.00	9
	Theft, loss etc of personal licence	10.50	-	10.50	9	10.50	-	10.50	9
	Duty to notify change of name or address	10.50	-	10.50	9	10.50	-	10.50	9
	Right of freeholder to be notified	21.00	-	21.00	9	21.00	-	21.00	9

EXETER CITY COUNCIL

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

FEES FOR HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER VEHICLE AND OPERATOR'S LICENCES

NOTICE IS HEREBY GIVEN THAT:

It is proposed to vary the maximum fees specified in Local Government (Miscellaneous Provisions) Act 1976 section 70(2) as follows:

	Fee £	VAT@20% £	Total £
Hackney Carriage			
Vehicle licence (including plate and survey charge)	340.00		340.00
Driver's licence and ID card – 1 year	99.00		99.00
Driver's licence and ID card – 3 years	235.00		235.00
Private Hire			
Operator's licence – per annum	112.00		112.00
Operator's licence – 5 year	480.00		480.00
Vehicle licence (including plate)	262.50		262.50
Driver's licence and ID card – 1 year	99.00		99.00
Driver's licence and ID card – 3 years	235.00		235.00
Vehicle Licences and Plate -Transfer fees	60.00		60.00
Additional Knowledge Test	33.33	6.67	40.00
Miscellaneous Fees			
Replacement plate	30.00		30.00
Missed appointments	30.00	6.00	36.00

A copy of this notice is deposited at the offices of Exeter City Council and shall at all reasonable hours be open to public inspection without payment until Thursday 9 March 2017.

Objections to the proposed variation must be made in writing to Mr R Norley Assistant Director Environment Civic Centre, Paris Street, Exeter EX1 1JN and received by him not later than Thursday 9 March 2017.

Mr R Norley
Assistant Director Environment
Exeter City Council
Civic Centre
Paris Street
Exeter EX1 1RQ

Dated
9 February 2017



Exeter City Council

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REPORT TO: LICENSING COMMITTEE

Date of Hearing: 07 February 2017

Report of: Assistant Director Environment

Type of Application: To seek the introduction of amendments to the policy relating to Practices and Procedures for the control of Hackney Carriage and Private Hire Vehicles, Drivers and Operators

Legislation: Local Government (Miscellaneous Provisions) Act 1976

Is this a Key Decision?

No

Is this an Executive or Council Function?

Licensing is a Council function delegated to the Licensing Committee

1. What is the report about?

1.1 The report seeks to introduce amendments to the current policy relating Practices and Procedures for the control of Hackney Carriage and Private Hire Vehicles, Drivers and Operators.

2. Recommendations:

2.1 It is recommended that the Committee accepts the updated compilation of Practices and Procedures for the control of Hackney Carriage and Private Hire Vehicles, Drivers and Operators

3. Reasons for the recommendation:

3.1 The Licensing Team have been contacted by DigiCAB Media to request permission for them to install passenger facing digital information screens within Licenced vehicles. In-vehicle advertising had not been included in the previous version of the policy, and as such an additional Appendix (Appendix R), has been added to introduce relevant conditions for in-vehicle digital media. DigiCAB have confirmed that they would be happy to include public safety information from ECC/ Community Safety Partnership as part of the advertising feed should this amendment be agreeable to the Committee.

3.2 Appendix E of the Policy (Guidelines relating to the relevance of Convictions), has been amended to clarify that cautions will be treated as per a conviction for the same offence. The reason for this amendment is that following several recent referrals to the Licensing sub-committee for consideration as to the applicants fitness and propriety to obtain a licence (due to relevant convictions and cautions disclosed), it was felt that the status of any cautions disclosed could be clarified further. Taxi driving is listed as one of the professions that are exempt from the Rehabilitation of Offenders Act 1974. Applicants/ Licence holders are therefore required to disclose any cautions, and these would be shown on the Disclosure and Barring Service (DBS) check. The amended Appendix E of the Policy has been attached to this report.

4. What are the resource implications including non financial resources.

- 4.1 The resources required to fund the amendments to the policy detailed above will be provided from the Taxi Licensing budget which is paid for via licence fees. This budget is ring fenced and must be used to fund the costs of taxi licensing/ enforcement.

5. Section 151 Officer comments:

As stated in the report the taxi licence budget is ring-fenced and managed via an earmarked reserve. There are therefore no financial implications for the General Fund from adopting this proposal.

6. What are the legal aspects?

- 6.1 The Licensing Authority has a statutory duty to ensure that public safety is not compromised when considering the issue of licences and to ensure that any vehicle licensed is suitable, safe and fit for the purpose. It is felt that the proposals contained in this report will enhance public safety without significantly increasing the burdens on existing or prospective licenced drivers/ proprietors.

7. Monitoring Officer's comments:

This report raises no issues for the Monitoring Officer.

8. Report details

- 8.1 The Licensing Committee on 22 September 2015 adopted an Updated compilation of Practices and Procedures for the control of Hackney Carriage and Private Hire Vehicles, Drivers and Operators.
- 8.2 It is necessary to seek approval for further revisions of this document in order to enhance standards and safety with respect to this aspect of licensing.
- 8.3 The amendments include a proposed new Appendix (Appendix R) to allow suitable passenger facing digital information screens within Licenced vehicles.
- 8.4 Additional proposed conditions include amendment to Appendix E of the policy to clarify the status cautions.

9. How does the decision contribute to the Council's Corporate Plan?

- 9.1 Approving these amendments will contribute to a healthy and safe city and assist the primary aim of taxi licensing which is to protect public safety.

10. What risks are there and how can they be reduced?

- 10.1 Formulating a hackney carriage vehicle policy that protects public safety should lead to a positive impact on creating a vibrant city to live, work and visit. The higher quality standards were coupled with the decision not to maintain the policy of restriction, in order to prevent any negative impact (if any); the amendment to policy in this report will assist in this prevention.

- 11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?**
- 11.1 The proposed amendments should lead to a positive impacts on equality and diversity, and safeguarding.
- 12. Are there any other options?**
- 12.1 Members could maintain the current policy, but this would risk the policy becoming out of date and thereby less effective.

Assistant Director Environment

Local Government (Access to Information) Act 1972 (as amended)
Background papers used in compiling this report:-

None

Contact for enquires: Mark Devin
Democratic Services (Committees)
Room 2.3
01392 265477

Appendix E – Guidelines relating to the relevance of convictions

The following guidelines are used to determine the relevance of criminal convictions in relation to applications for hackney carriage and private hire driver's licenses.

In the context of this Policy

"The Council" means Exeter City Council

"Licence" means a licence to drive an hackney carriage and/or private hire vehicle

"Drivers" means persons applying for or holding hackney carriage and/or private hire vehicle drivers' licences

"Convictions" means all convictions including juvenile convictions, cautions, warnings and reprimands.

"Fit and Proper" means Fit and Proper to hold a Drivers Licence

"ROA" Rehabilitation of Offenders Act 1974

"The Order" means Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 as amended.

E1 General Policies

The Council must satisfy itself as far as possible that all Drivers are Fit and Proper persons to hold a Drivers Licence. In so doing, the Council will have regard to all relevant factors such as Convictions including those that are "spent Convictions" under the ROA.

Issues calling in to question whether a Driver is Fit and Proper are decided by the Licensing Committee on a case by case basis with each case being decided on its own merits. The Licensing Committee always puts the protection of the public first when considering Drivers' Convictions and whether a Licence should be refused or revoked because a Driver is not Fit and Proper.

Where there is evidence, including evidence of Convictions, to question whether a Driver is Fit and Proper the matter will be referred to the Licensing Committee with a report which may make recommendations based on this Policy but the final decision as to whether a Driver is Fit and Proper rests with the Licensing Committee. The onus is on the Driver to demonstrate to the Licensing Committee that he is Fit and Proper.

Persons with Convictions for serious offences are not necessarily prevented permanently from holding a Licence but will be expected to remain free of further Convictions for an appropriate period, before an application for a Licence is considered. However, remaining free of further Convictions for a specified period may not be sufficient to show that a Driver is Fit and Proper and additional evidence may be required.

There may be occasions where it is appropriate to depart from these guidelines when considering whether a Driver is Fit and Proper. For example, where the offence is a one-off and there are mitigating circumstances or where

there are many or continuous offences which may show a pattern of offending and unfitness.

E2 Relevance of Rehabilitation of Offenders Act 1974

ROA section 4(1) provides that where persons are rehabilitated for the purposes of ROA in respect of a conviction they shall be treated for all purposes in law as a person who has not committed, been charged with, prosecuted for, convicted of or sentenced for the offence(s) which were the subject of that conviction and:

- a) no evidence shall be admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in Great Britain to prove that any such person has committed or been charged with or prosecuted for or convicted of or sentenced for any offence which was the subject of a spent conviction; and
- b) A person shall not, in any such proceedings, be asked, and, if asked, shall not be required to answer, any question relating to his past which cannot be answered without acknowledging or referring to a spent conviction or spent convictions or any circumstances ancillary thereto.

Section 4(2) further provides that where a question seeking information with respect to a person's previous convictions, offences, conduct or circumstances is put to him or to any other person otherwise than in proceedings before a judicial authority:

- a) the question shall be treated as not relating to spent convictions or to any circumstances ancillary to spent convictions, and the answer thereto may be framed accordingly; and
- b) the person questioned shall not be subjected to any liability or otherwise prejudiced in law by reason of any failure to acknowledge or disclose a spent conviction or any circumstances ancillary to a spent conviction in his answer to the question.

The Order exempts Drivers from the provisions of section 4(2) ROA where the Driver questioned is informed at the time the question is asked, that by virtue of the Order spent convictions are to be disclosed.

The following sets out the policy of the Council in relation to Drivers' Convictions.

(a) Offences where refusal or revocation will always be recommended (Appendix G1).

Where a Driver has Convictions for any of the offences listed in Appendix G1 the recommendation to the Licensing Committee will be to refuse application for or revoke a Licence. These include offences involving loss of life, serious road traffic offences and sexual offences.

As the driver of hackney carriages and private hire vehicles often carry passengers who are alone or may be vulnerable, applicants who have convictions for rape, indecent assault, any sexual offence involving children

and any conviction for an offence under the Sexual Offences Act 2003 will normally be refused a licence.

(b) Offences where refusal or revocation will be recommended within 5 years of the date of conviction or expiry of any custodial sentence imposed whichever is the later date (Appendix G2).

These include offences involving dishonesty, violence and indecency as well as offences involving the supply of drugs.

The public using hackney carriages and private hire vehicles expect drivers to be honest and trustworthy. Moreover, the widespread practice of delivering unaccompanied property is indicative of the trust that business people place in drivers. It is comparatively easy for a dishonest driver to defraud the public by demanding more than the legal fare and overseas visitors can be an easy target for unscrupulous drivers.

For these reasons where a Driver has Convictions for offences involving dishonesty the policy of the Council will be to refuse application for or revoke a Licence within 5 years from the date of any Conviction or the end of any custodial sentence imposed or where there are two or more offences in any period involving dishonesty.

Drivers maintain close contact with the public and for this reason where a Driver has Convictions for offences involving violence the recommendation to the Licensing Committee will be to refuse application for or revoke a Licence within 5 years from the date of any Conviction or the end of any custodial sentence imposed or where there are two or more offences in any period involving violence.

Where an applicant has a conviction for a sexual offence such as indecent exposure they will normally be refused a licence until they can show a substantial period usually between 5 and 10 years free of any such convictions from the date of conviction or the date of release where a custodial sentence has been imposed before an application is made.

After a period of 5 years from the date of a conviction or the date of release where a custodial sentence has been imposed, consideration will be given to the circumstances of the offence and any evidence to show that an applicant is a Fit and Proper person to hold a licence.

When considering applications, the Licensing Committee may take into account any information of a sexual nature which does not amount to a criminal offence that is brought to its attention where that information may indicate that an applicant may not be a Fit and Proper person to hold a licence.

An application will normally be refused where it is made within 5 years from the date of a conviction or the date of release where a custodial sentence has been imposed for an offence relating to the supply of drugs.

(c) Offences where refusal or revocation will be recommended within 3 years of the date of conviction or expiry of any custodial sentence imposed whichever is the later date (Appendix G3).

These includes less serious offences such as the possession of drugs

An application will normally be refused where it is made within 3 years from the date of a conviction or the date of release where a custodial sentence has been imposed for an offence relating to the possession of drugs.

An application will normally be refused where there is more than one conviction for offences related to the possession of drugs and the last conviction or the date of release where a custodial sentence has been imposed, is less than 5 years before the date of the application.

Where evidence is available that an applicant who has convictions for drug related offences has been addicted to drugs, they will have to produce evidence that shows that they have been free of drug taking for at least 5 years after successfully completing a drug treatment programme.

**d) Convictions for Road Traffic Offences (Appendix G4)
Convictions Where Disqualification from Holding a Driver's Licence is Imposed.**

Where you have been disqualified from driving by the Courts, your application will generally be refused unless a period of 5 years free of conviction has passed since the return of the DVLA licence.

Where a disqualification is imposed by a court in a "totting-up" case, you will generally be refused unless a period of 2 years free of conviction has elapsed since the return of the DVLA driver licence.

In "totting-up" cases where a court does not impose a disqualification because of exceptional circumstances, an application will generally be refused unless an applicant can show a period of 2 year free of conviction from the date of the last Court appearance.

Other Convictions for Road Traffic Offences

Normally, convictions for other traffic offences not involving disqualification should not prevent someone obtaining a licence. However, if there are several convictions for these types of offence, an applicant will normally be expected not to have been convicted of an offence in the 6 months before an application is made.

(e) Offences under the Town Police Clauses Acts and Part II of the Local Government (Miscellaneous Provisions) Act 1976 (the Acts) (Appendix G5)

One of the main purposes of the licensing regime set out in the Acts is to ensure the protection of the public. For this reason, a serious view will be taken of convictions for offences under these Acts.

For these offences the recommendation to the Licensing Committee will be to refuse the application within 3 years of the conviction or to revoke the Drivers Licence if the offence arises during the currency of that Licence.

Appendix R – Internal Advertising

ADVERTISING INTERNALLY WITHIN THE VEHICLE VIA TV SCREENS

(DIGITAL MEDIA TECHNOLOGY)

Hackney carriage and private hire vehicles may install in-vehicle digital media technology to be used for advertising purposes and/or live feed material. To use this form of technology for advertising purposes and/or live feed material it must comply with the following conditions:

1. Digital media systems must be approved by the licensing authority before they are installed.
2. All broadcast material must comply with the OFCOM Broadcasting Code.
3. All films/video material must be classified by the BBFC as U or exempt from classification.
4. The only live feed material that can be shown is national/local news and weather.
5. All equipment must comply with any legislative requirements in respect of Construction and Use Regulations and other legislation.
6. All equipment must be designed, constructed and installed in such a way and in such material as to present no danger to passengers or driver, including from impact with the equipment in the event of an accident or damage from the electrical integrity being breached through vandalism, misuse or wear and tear.
7. The equipment must not interfere with any other safety, control, electrical, computer, navigation, satellite or radio system in the vehicle.
8. The intensity of any screen should not be such as to be visually intrusive or dazzling. The position of the screen must not obstruct the passenger's view of the meter and the visibility of the screen to following vehicles should be minimal.
9. Any screen shall be no larger than 15".
10. All equipment must be installed in the driver's compartment and should not be visible from the driver position. The screen may be installed in the driver and front passenger seat headrests, or other suitable location agreed by the licensing authority.
11. The installation must not be such as to weaken the structure or any other component part of the vehicle or interfere with the integrity of the manufacturer's original equipment.
12. The design must be discreet and complement the interior furnishing of the vehicle.
13. Passengers must be able to control the volume level, including turning the sound off. The driver must have overall control of the volume to make sure it does not distract them while driving. The sound should be automatically muted when the intercom is operated.
14. Passengers must be able to turn the screen off.
15. A notice should be displayed within prominent view and physical reach of all passenger seats giving instructions to passengers as to adjusting the volume and turning the screen off. The notice shall be in a suitable format and design for visually impaired people and visible in low light conditions.
16. The mute/volume control must be accessible from the nearside and offside passenger seats.

17. Once activated the mute should continue without further activation by the passenger until the passenger leaves the vehicle.
18. All equipment must be protected from the elements, secure from tampering and located such as to have no impact on the seating and luggage carrying capacity of the vehicle.

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