

South Hams Licensing Committee



Title:	Agenda										
Date:	Thursday, 11th January, 2018										
Time:	12.00 pm										
Venue:	Dining Room - Follaton House										
Full Members:	<p style="text-align: center;">Chairman Cllr May Vice Chairman Cllr Holway</p> <p><i>Members:</i></p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td>Cllr Baldry</td> <td>Cllr Foss</td> </tr> <tr> <td>Cllr Blackler</td> <td>Cllr Hitchins</td> </tr> <tr> <td>Cllr Brown</td> <td>Cllr Hopwood</td> </tr> <tr> <td>Cllr Cane</td> <td>Cllr Pringle</td> </tr> <tr> <td>Cllr Cuthbert</td> <td>Cllr Rowe</td> </tr> </table>	Cllr Baldry	Cllr Foss	Cllr Blackler	Cllr Hitchins	Cllr Brown	Cllr Hopwood	Cllr Cane	Cllr Pringle	Cllr Cuthbert	Cllr Rowe
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Cllr Brown	Cllr Hopwood										
Cllr Cane	Cllr Pringle										
Cllr Cuthbert	Cllr Rowe										
Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.										
Committee administrator:	Member.Services@swdevon.gov.uk										

- 1. Minutes** **1 - 6**

to approve as a correct record and authorise the Chairman to sign the minutes of the meeting of the Licensing Committee held on 12 October 2017 and the Licensing Sub-Committee meeting held on 12 October 2017;
- 2. Urgent Business**

brought forward at the discretion of the Chairman;
- 3. Division of Agenda**

to consider whether the discussion of any item of business is likely to lead to the disclosure of exempt information;
- 4. Declarations of interest**

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests; they may have in any items to be considered at this meeting;
- 5. Exclusion of Public and Press**

to consider the following resolution to exclude the public and press:-

“That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item of business in order to avoid the likely disclosure to them of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A to the Act”;
- 6. Determination of Whether an Applicant for a Hackney Carriage and Private Hire Driving Licence is a 'Fit and Proper Person'** **7 - 26**
- 7. Re-admittance of Public and Press**
- 8. Review of Proposed Licensing Charges in Relation to Taxi Licensing** **27 - 32**

MINUTES OF THE MEETING OF THE LICENSING COMMITTEE HELD AT FOLLATON HOUSE, TOTNES ON THURSDAY 12 OCTOBER 2017

MEMBERS

* Cllr D W May - Chairman

∅ Cllr T R Holway - Vice-Chairman

* Cllr K Baldry

∅ Cllr R J Foss

* Cllr J I G Blackler

∅ Cllr P W Hitchins

* Cllr D Brown

* Cllr N A Hopwood

* Cllr B F Cane

* Cllr K Pringle

* Cllr P K Cuthbert

* Cllr R Rowe

* Denotes attendance

∅ Denotes apology for absence

Officers in attendance and participating:

All Agenda Items: Senior Specialist – Licensing; Licensing Specialist; Deputy Monitoring Officer and Senior Specialist – Democratic Services

Also in attendance:

Cllr S A E Wright

L.06/17 **APPOINTMENT OF VICE-CHAIRMAN**

In light of the Vice-Chairman having submitted his apologies to this meeting, nominations were invited to serve as Vice-Chairman for the duration of this meeting.

It was then:

RESOLVED

That Cllr D Brown be appointed Vice-Chairman for the duration of this meeting.

L.07/17 **MINUTES**

The minutes of the meeting of the Licensing Committee held on 25 May 2017 and the Licensing Sub-Committee meeting held on 25 May 2017 were both confirmed as a correct record and signed by the Chairman.

L.08/17 **DECLARATIONS OF INTEREST**

Members were invited to declare any interests in the items of business to be considered during the course of the meeting, but there were none made.

For clarity, Cllr D W May did wish for it be noted that, whilst he owned an MOT Testing Centre, he had offered no view or input into the licensing of taxi vehicles.

L.9/17

APPROVAL OF POLICY IN RELATION TO THE LICENSING OF TAXI DRIVERS AND VEHICLES

Consideration was given to a report that sought to recommend to Council approval of the draft Taxi Licensing Policy.

In his introduction, the Chairman highlighted some concerns that he had been made aware of in relation to the proposed Fees and Charges Table. As a consequence, he was of the view that there was a need for greater work to be carried out on the Fees and Charges Table and felt that this should be initially discussed in an informal Committee Workshop. In the ensuing discussion, a number of Members welcomed this suggestion.

In discussion on the draft Policy, reference was made to:-

- (a) the use of fire extinguishers. Whilst the Policy could promote the need for fire extinguishers in licensed hackney carriage and private hire vehicles to help tackle minor incidents, officers advised that it could not be a mandatory requirement, particularly when a number of drivers would not have been trained on how to use them properly;
- (b) the requirement for vehicle licence holders to carry copies of documents including: Driving Licence; Insurance; and V5 Registration Document. The Committee was informed that removal of this requirement had been requested during the consultation exercise. However, it would still remain a requirement to make these documents available for inspection. Nonetheless, a Member expressed his disappointment at the proposal to particularly remove the requirement in relation to carrying a copy of the Driving Licence and Insurance.

It was then:

RESOLVED

1. That the Council be **RECOMMENDED** that the draft Taxi Licensing Policy be adopted for implementation on 1 April 2018; and
2. That the Committee defer a decision on the Fees and Charges Table to a future Committee meeting.

L.10/17

SUMMARY OF NEW / VARIATION OF PREMISES LICENCES AND CLUB PREMISES CERTIFICATES ISSUED BETWEEN 1 OCTOBER 2016 TO 30 SEPTEMBER 2017

Members were presented with a paper that provided them with a summary of the licences that had been issued between 1 October 2016 and 30 September 2017.

The Committee welcomed the fact that all Members and town and parish councils were consulted on every application and the view was expressed that this working practice was well received.

It was then:

RESOLVED

That the summary of licences issued between 1 October 2016 and 30 September 2017 be noted.

(Meeting commenced at 2.00 pm and concluded at 2.25 pm).

Chairman

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD AT
FOLLATON HOUSE, TOTNES ON THURSDAY 12 OCTOBER 2017**

Present: Cllrs David May, Karen Pringle and Rosemary Rowe
James Kershaw – Senior Specialist, Licensing
Alex Reece, Solicitor
Naomi Stacey – Specialist, Licensing
Darryl White, Senior Specialist – Democratic Services

Also in attendance but not participating:

Cllr Keith Baldry

LSC.07/17 **APPOINTMENT OF CHAIRMAN**

RESOLVED

That Cllr May be appointed Chairman for the duration of the meeting.

LSC.08/17 **DECLARATIONS OF INTEREST**

Members and officers were invited to declare any interests in the items of business to be considered during the course of the meeting, but there were none made.

LSC.09/17 **TO DETERMINE AN APPLICATION FOR A NEW PREMISES LICENCE AT
SPRINGFIELD FARM SHOP, EAST CHARLETON, KINGSBRIDGE TQ7
2AR**

The Sub-Committee considered a report that sought to determine an application for a new premises licence at Springfield Farm Shop, East Charleton, Kingsbridge.

The Licensing Specialist introduced the report and outlined the details of the application (as stated in the application form at Appendix A of the presented agenda report).

In addition, the Licensing Specialist specifically outlined the amendments that were illustrated at Appendix B of the presented agenda report that had been agreed between the applicant and the Police.

The attention of the Committee was also drawn to the three letters of objection that had been received during the consultation process (as outlined at Appendix C of the presented agenda report). Following the agreed amendments between the applicant and the Police, it was noted that one letter of objection had since been withdrawn.

In discussion, the Sub-Committee was of the view that the majority of points raised in the letters of objection (e.g. competition) were not relevant to the four licensing objectives.

(At 2.45pm, the Sub-Committee then adjourned in the presence of Mrs Reece to consider the application and reconvened at 2.55pm).

1. The Decision

In announcing the Sub-Committee decision, the Chairman read out the following statement:

“We have considered the application for a new premises licence.

We have considered the Statement of Licensing Policy, the government guidance and our obligations that relate to the promotion of the licensing objectives.

We have read carefully the written representations from all parties, plus additional statements from persons here today. We have also considered the additional conditions proposed by the Police and accepted by the Applicant.

It is our decision to grant this application, subject to inclusion of the additional conditions requested by the Police. We have determined the changes to be appropriate to achieve the licensing objectives and are satisfied that the conditions agreed with the Police properly address these objectives.”

Chairman

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Report to: **Licensing Committee**
Date: **11 January 2018**
Title: **Review Proposed Licensing Charges in Relation to Taxi Licensing**
Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee:

Urgent Decision: **N** Approval and clearance obtained: **y**

Date next steps can be taken: Following a public consultation adoption of the proposed fees by Full Council.

Author: James Kershaw Role: **Senior Specialist**

Contact: **Tel: 01803 861287**
email: james.kershaw@swdevon.gov.uk

Recommendations:

- 1. That, having reviewed the proposed Fees Table, the Committee APPROVE a period of public consultation in accordance with s.70 of the Local Government (Miscellaneous Provisions) Act 1976.**
- 2. That the Committee RECOMMEND to Full Council that the proposed fees be adopted with effect from 1 April 2018, subject to the outcome of the public consultation.**

1. Executive summary

- 1.1 Local authorities may issue licences to both taxi drivers and the owners of vehicles to allow them to be used as a hackney carriage or private hire vehicle.

- 1.2 The Council may charge fees for the grant of both driver, vehicle licenses, and private hire operator licences. The legislation stipulates what this fee may cover which varies depending upon the type of licence.
- 1.3 Section 70 stipulates where we are seeking to vary the maximum chargeable fee in relation to vehicles and operators we must undertake a period of public consultation, prior to those fees coming into force.
- 1.4 Following the adoption of a new taxi policy it was an opportune moment to review our fees, to ensure that they are legally compliant. The proposed fees reflect the revised burden to the licensing team, which is lessened by the requirement that taxi owners get their vehicles inspected by a third party garage.

2. Background

- 2.1 The Local Government (Miscellaneous Provisions) Act 1976 (the Act) legislates how the Council issues taxi licences and how we set the fees for these licences.
- 2.2 In relation to taxi driver licences, the Council may charge a fee to cover "such a fee as they consider reasonable with a view to recovering the costs of issue and administration".
- 2.3 In relation to Vehicle and Operator licences section 70 of the Act states 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—

(a) the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;

(b) the reasonable cost of providing hackney carriage stands; and

(c) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.

(2) The fees chargeable under this section shall not exceed—

(a) for the grant of a vehicle licence in respect of a hackney carriage, twenty-five pounds;

(b) for the grant of a vehicle licence in respect of a private hire vehicle, twenty-five pounds; and

(c) for the grant of an operator's licence, twenty-five pounds per annum;

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.”

- 2.4 Having amended the taxi licensing policy in 2017, a review of the costs of delivering the taxi licences in accordance with the legislation stated above was undertaken. Based on this, and relevant guidance issued by the Local Government Association, the below proposed fees have been produced:

Licence Type	Current Licence Fee	Licence Fee Proposed
1 Year Driver	£135	£105
3 Year Driver	£360	£266
New Driver Fee excluding knowledge test	N/A	£109
Knowledge Test	£47	£50
DBS Check inc. admin fee	£44	£60
1 Year Hackney Carriage Vehicle	£228	£181
1 Year Private Hire Vehicle	£216	£160
Application for exemption of displaying a Private Hire Plate	N/A	£60
1 Year Reduced Fee Vehicle Licence	£110	£20
1 Year Trailer Fee	N/A	£32.50
1 Year Private Hire Operator	£118	£125
5 Year Private Hire Operator	£470	£472

- 2.5 There will be a reduction in income based on these figures, however legally it is not believed that we can charge more than proposed. There have recently been a number of cases where local authorities have been successfully challenged by the taxi trade for overcharging (Cummings v. Cardiff City Council) and the impact has been that the Councils have had to repay all or a part of the fees gathered since a point determined by the Courts.

3. Outcomes/outputs

- 3.1 In order to adopt the proposed fees we need to commence a period of public consultation in accordance with section 70(3) of the Local Government (Miscellaneous Provisions) Act 1976.
- 3.2 The public consultation will involve advertising the proposed fees in a local newspaper, and placing a notice at the Council offices. This advert must stipulate how the notice can be inspected, and how the proposals can be objected to.
- 3.3 If an objection is received the committee will need to consider these objections and whether the fees should be amended accordingly. Full Council will then need to ratify the proposed fees. With a proposed implementation date of 1st April 2018.

4. Options available and consideration of risk

- 4.1 Members may consider that the fees should not be amended as proposed, especially in relation to subsidising the cost of wheelchair accessible vehicles and ultra-low emission vehicles. We are however trying to promote the uptake of these types of vehicles through the policy.
- 4.2 The committee should be mindful of the legislative requirements of the Local Government (Miscellaneous Provisions) Act s.53 & s.70, and the successful challenges by the taxi trade in cases such as Cummings v. Cardiff City Council. If we fail to set a fee that is lawful we may face a challenge from the trade, should this be successful the Council may have to pay out substantial costs to the trade to recompense them.

5. Proposed Way Forward

- 5.1 Committee should approve the suggested fees in relation to the licensing of taxis, and allow a public consultation to commence with a formal adoption date of the 1st April 2018.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		In relation to Vehicle and Operator licences section 70 of the Act states 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— (a)the reasonable cost of the carrying out by or on behalf of the district council of inspections of hackney carriages and private hire vehicles for the

		<p>purpose of determining whether any such licence should be granted or renewed;</p> <p>(b)the reasonable cost of providing hackney carriage stands; and</p> <p>(c)any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.</p> <p>(2)The fees chargeable under this section shall not exceed—</p> <p>(a)for the grant of a vehicle licence in respect of a hackney carriage, twenty-five pounds;</p> <p>(b)for the grant of a vehicle licence in respect of a private hire vehicle, twenty-five pounds; and</p> <p>(c)for the grant of an operator’s licence, twenty-five pounds per annum;</p> <p>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.”</p> <p>Section 53 (2) of the same act covers the legal basis for recovering the costs of a driver licence and states;</p> <p>“(2)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.”</p> <p>There have been a number of cases where Councils have been successfully challenged for over charging for taxi licences most notably is the case of Cummings v. Cardiff City Council. Having reviewed the cost of licensing taxis it is believed that the suggested fees are appropriate.</p>
Financial		<p>By reducing the maximum fees charged there is a forecasted reduction in income of £11,151. This however reflects the reduced cost of delivering the service due to no longer inspecting the vehicles ourselves, and other efficiencies made through process reviews.</p>
Risk		<p>Should the Council fail to set lawful fees they could be challenged by the taxi trade. In previous cases this has led to significant pay outs having to be</p>

		made to licence holders to reimburse them for the over payment. The reputational risk of overcharging would be quite high, as it could damage the relationship we have with the taxi trade.
Comprehensive Impact Assessment Implications		
Equality and Diversity		None foreseen.
Safeguarding		None foreseen.
Community Safety, Crime and Disorder		None foreseen
Health, Safety and Wellbeing		None foreseen
Other implications		None foreseen

Supporting Information

Appendices:

None

Background Papers:

Local Government Association: Open for business: LGA guidance on locally set licence fees