

AGENDA ITEM NO. 7

TITLE: LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 (AS AMENDED BY THE DEREGULATION ACT 2015) – HACKNEY CARRIAGE AND PRIVATE HIRE FEES

Committee: Licensing Committee

Date: 15 July 2015

Author: Stewart Broome, Senior Licensing Officer

[Q30]

1.0 ISSUE

- 1.1
- i) To approve the proposed new three year driver's licence application and renewal fee detailed in point 1.2 to comply with the requirements of the Deregulation Act 2015.
 - ii) To approve the proposed new five year operator's licence application and renewal fee detailed in point 1.2 to comply with the requirements of the Deregulation Act 2015.
 - iii) To approve the required public notice for publication.
 - iv) To approve Officers to amend the taxi and private hire guide "blue book" to reflect the changes created by the Deregulation Act 2015.

1.2

Licence Type	One Year Fee	Three Year Fee	Five Year Fee
Driver Licence (New)	£174.00	£260.00	N/A
Driver Licence (Renewal)	£60.00	£129.00	N/A
Operator Licence (New)	£90.00	N/A	£380.00
Operator Licence (Renewal)	£90.00	N/A	£380.00

2.0 RECOMMENDATION(S)

- 2.1 That Members approve the proposed figures contained in this report.
- 2.2 That Members approve Officers to publish a public notice containing the approved figures inviting comments in accordance with the requirements of the Local Government (Miscellaneous Provisions) Act 1976 ("the 1976 Act").
- 2.3 That Members approve Officers to amend the taxi and private hire guide to reflect the changes created by the Deregulation Act 2015 ("the 2015 Act").

3.0 BACKGROUND

- 3.1 The 1976 Act currently permits a Licensing Authority to issue driver licences for up to three years, operator licences for up to five years, and vehicle licences for up to one year, or in all cases, for such lesser period as the district council may specify in such licence.

- 3.2 The Licensing Authority of the Council has historically issued one year licences for all types of taxi licences, and as a result of this has no fee structure in place for other periods of time.
- 3.3 Section 10 of the 2015 Act which commences on 1 October 2015 amends the 1976 Act, placing a requirement upon a Licensing Authority to issue three year driver licences and five year operator licences as the norm to all applicants, unless the Licensing Authority think it appropriate in the circumstances of the case to issue it for a lesser period. Vehicle licences are not affected by the 2015 Act.
- 3.4 The explanatory notes contained in the 2015 Act clarify that the circumstances of the individual case should be used to consider a lesser period and not the use of a blanket policy.
- 3.5 The licence fees for vehicles, operators and drivers are subject to the provisions of the 1976 Act. Section 53(2) of the 1976 Act in respect of driver's licences provides that the Council may charge and recover the reasonable costs of issue and administration.
- 3.6 Section 70 of the 1976 Act further provides that the Council may charge such fees for the grant of vehicle and operator licences as may be sufficient to cover in whole or part the reasonable costs of carrying out inspections of vehicles, the reasonable costs of providing hackney carriage stands, reasonable administrative or other costs, and the reasonable costs of controlling and supervising hackney carriages and private hire vehicles.
- 3.7 The 1976 Act requires that where it is proposed that a fee exceeding £25 be imposed, an advertisement be made in the local newspaper, giving 28 days for objections. If objections are received the authority must give them due consideration before either modifying or confirming the charges. Once agreed, whether modified or otherwise, the fee will come into operation with immediate effect or on the date to be agreed, without the need for further consultation.

4.0 FEE SETTING PROCESS

- 4.1 The Licensing Service should be operated on a cost neutral basis as the legislation allows for full cost recovery of the licensing functions but requires that the service does not make a profit.
- 4.2 There have been a number of legal challenges to the level of fees that have been levied by licensing authorities. The most notable case being R (on the application of Hemming (t/a Simply Pleasure Ltd) and others) v Westminster City Council (2013). The focus of these challenges has been where fees are considered to be higher than the cost of exercising the functions connected to the provision of licences, and also where it has been considered that cross subsidisation is occurring. Cross subsidisation is not permitted

under the legislation and requires that fees are charged to the correct licence holders for the specific functions connected to that licence.

- 4.3 Surpluses and deficits need to be taken into consideration when setting fees. The provision of Hackney Carriage and Private Hire licences have to be treated separately, so one cannot offset the other.
- 4.4 Due to the above, when considering issuing licences for a longer period of time it is not appropriate to simply multiply the existing figure by the number of years you wish the new licence to run for as certain costs to the licensing authority that are incurred when processing a renewal on an annual basis would no longer be incurred by the authority.
- 4.5 It is considered best practice to conduct a full cost and fees analysis prior to amending any of the fees levied by the authority. Unfortunately, due to the tight time frame provided by the change in legislation it has not been possible to conduct a full cost and fees analysis prior to producing the recommended fees shown in point 1.2 above. However, the following information has been used to prepare the estimated figure.
 - i) The assumption that the current figures approved in 2011 are covering the cost of the service provided, and not making a profit.
 - ii) The removal of the estimated physical cost of providing and producing new badges for two years, and new operator licences for four years.
 - iii) The removal of the estimated cost of processing the renewal applications which are no longer required at the end of year one and two for drivers, and in the case of operators, year one, two, three, and four.

5.0 CONCLUSIONS

- 5.1 It is considered that the current fees charged for taxi licences need reviewing in light of the Hemming case, and the time that has passed since they were last approved. This piece of work will take place during 2015, with the intention of being resolved in time for the next financial year.
- 5.2 The licensing authority has no option but to comply with the amendments created by the 2015 Act, and must have the ability to charge and issue three and five year licences in place by the 1 October 2015.

6.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

- 6.1 The new fees represent a reduction in the overall costs a driver or operator will incur over the three or five year period of their licence. However, as the fees must be paid in full upon application the changes mean that drivers and operators will have to pay a larger figure on their next renewal than they would normally be expecting to pay. Officers will be inviting representatives of the trade to a meeting at the Council Offices on 20 July 2015 to explain the changes.

- 6.2 The proposal put to Members has the potential to cause the licensing authority to fall into a financial deficit due to the reduction in three and/or five year revenue if the current figures used to calculate the estimated licence fees are themselves not covering the true cost of the service, or if the calculation used to estimate the new licence fees is inaccurate.

It should be noted that any potential deficit may be recovered in future years, as this is permitted in the fee setting process.

- 6.3 Annual licence fees will still be available where it is considered appropriate (based on the individual circumstances of the case) to licence for such a period. Therefore, it would be perfectly reasonable for Officers to issue an annual licence to a person who cannot afford to licence for the new standard duration, or who requests a licence for a shorter period for a specific reason.

- 6.4 There will be the cost for placing the advertisement in the local newspaper.

- 6.5 An Equality Impact Assessment (EIA) has been completed showing there is likely to be an impact on the community. However, the changes have not been found to affect one group over another, and are required to ensure the licensing authority complies with a legislative requirement it has a statutory obligation to follow.

6.0 APPENDICES

- 7.1 Appendix 1 – Copy of the public notice to be displayed.

- 7.2 Appendix 2 – Equality Impact Assessment (EIA)

<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
Local Government (Miscellaneous Provisions) Act 1976	Room SF208, The Grange, Ely	Stewart Broome Senior Licensing Officer Tel: (01353) 616287 E-mail: stewart.broome@eastcambs.gov.uk
Deregulation Act 2015		



East Cambridgeshire District Council

The Grange, Nutholt Lane, Ely, Cambridgeshire. Tel: 01353 665555

NOTICE of proposed changes in fees for driver and operator licences in accordance with section 53 and section 70 of the Local Government (Miscellaneous Provisions) Act 1976.

The Council proposes to introduce a three year joint hackney carriage and private hire driver licence fee, and a five year private hire operator licence fee as set out below:-

JOINT DRIVER LICENCES

3 year joint driver licence – new	£260.00*
3 year joint driver licence – renewal	£129.00**

* includes DBS fee, initial knowledge test fee, and initial DVLA check

** excludes all associated fees, with the exception of any DVLA checks conducted

OPERATORS LICENCES

5 year operator licence – new	£380.00
5 year operator licence – renewal	£380.00

Any objections to the proposed introduction should be sent in writing to the Senior Licensing Officer, East Cambridgeshire District Council, The Grange, Ely, CB7 4EE by Monday 17th August 2015, or by email to licensing@eastcambs.gov.uk. A copy of this notice has been deposited at the Council Offices and is available for inspection during office hours until Monday 17th August 2015.

If no objection is made by the date specified above, or if objections so made are withdrawn the proposed amendment shall come into operation on Tuesday 18th August 2015 or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later. If any objections are made, the Council will consider these objections on Wednesday 9th September 2015 and if deemed appropriate any amendment in the fees will come into force on a date to be determined by the Council, which shall be no later than Sunday 18th October 2015.

16 July 2015

LIZ KNOX

ENVIRONMENTAL SERVICES MANAGER

EQUALITY IMPACT ASSESSMENT (EIA) FORM

Name of Policy:	Taxi Fees – Amendment of Fees
Lead Officer (responsible for assessment):	Stewart Broome
Department:	Licensing
Others Involved in the Assessment (i.e. peer review, external challenge):	
Date EIA Completed:	19/6/2015

What is an Equality Impact Assessment (EIA)?

As part of any effective policy development process, it is important to consider any potential risks to those who will be affected by the policy's aims or by its implementation. The Equality Impact Assessment (EIA) process helps us to assess the implications of our decisions on the whole community, to eliminate discrimination, tackle inequality, develop a better understanding of the community we serve, target resources efficiently, and adhere to the transparency and accountability element of the Public Sector Equality Duty.

The word 'policy', in this context, includes the different things that the Council does. It includes any policy, procedure or practice - both in employment and service delivery. It also includes proposals for restructuring, redundancies and changes to service provision.

- (a) **What is the policy trying to achieve?** i.e. What is the aim/purpose of the policy? Is it affected by external drivers for change? What outcomes do we want to achieve from the policy? How will the policy be put into practice?

Compliance with the legislative requirements of the Deregulation Act 2015.

- (b) **Who are its main beneficiaries?** i.e. who will be affected by the policy?

Persons who hold a driver licence or operator licence, and those wishing to become licensed drivers and operators.

- (c) **Is the EIA informed by any information or background data (quantitative or qualitative)?** i.e. consultations, complaints, applications received, allocations/take-up, satisfaction rates, performance indicators, access audits, census data, benchmarking, workforce profile etc.

This assessment is informed by a legislative requirement placed upon the licensing authority

- (d) **Does this policy have the potential to cause a positive or negative impact on different groups in the community, on the grounds of any of the protected characteristics?** (please tick all that apply)

Ethnicity
Gender
Disability
Gender Reassignment
Pregnancy & Maternity

Age
Religion and Belief
Sexual Orientation
Marriage & Civil Partnership
Caring Responsibilities

Please explain any impact identified: i.e. What do you already know about equality impact or need? Is there any evidence that there is a higher or lower take-up by particular groups? Have

there been any demographic changes or trends locally? Are there any barriers to accessing the policy or service?

N/A

(e) Does the policy have a differential impact on different groups?

NO

(f) Is the impact *adverse* (i.e. less favourable)?

NO

(g) Does it have the potential to disadvantage or discriminate unfairly against any of the groups in a way that is unlawful?

NO

(h) How have you engaged stakeholders in gathering evidence or testing the policy proposals? Who was involved, how and when where they engaged? Does the evidence show potential for differential impact? How will you mitigate any negative impacts? Where there is the potential for an adverse impact that cannot be addressed immediately, these should be highlighted in your recommendations and objectives at the end of the EIA.

A public notice will be published. If objections are received Members will hear these. If no objections are received the new fee levels and amendments will come into effect immediately.

A meeting with the trade is organised for the 17 July 2015.

* The Consultation Register is available to assist staff in consulting with the Council's stakeholders.

(i) Summarise the findings of your research and/or consultation (please use a separate sheet if necessary).

N/A

(j) What are the risks associated with the policy in relation to differential impact and unmet needs/requirements? i.e. reputation, financial, breach of legislation, service exclusion, lack of resources, lack of cooperation, insufficient budget etc.

The licensing authority will not comply with legislative requirements if it does not make this amendment.

(k) Use the information gathered in the earlier stages of your EIA to make a judgement on whether there is the potential for the policy to result in unlawful discrimination or a less favourable impact on any group in the community, and what changes (if any) need to be made to the policy.

Option 1:	No major change - the evidence shows that the policy is robust and no potential for discrimination.	X
Option 2:	Adjust the policy - to remove barriers or to better promote equality.	
Option 3:	Continue the policy - despite potential for adverse impact or missed opportunity to promote equality, provided you have satisfied yourself that it does not unlawfully discriminate.	
Option 4:	Stop and remove the policy – if the policy shows adverse effects that cannot be justified.	

(I) Where you have identified the potential for adverse impact, what action can be taken to remove or mitigate against the potential for the policy to unlawfully discriminate or impact less favourably on one or more communities in a way that cannot be justified?

Include key activities that are likely to have the greatest impact (max. 6). Identified actions should be specified in detail for the first year but there may be further longer term actions which need to be considered. To ensure that your actions are more than just a list of good intentions, include for each: the person responsible for its completion, a timescale for completion, any cost implications and how these will be addressed. It is essential that you incorporate these actions into your service plans.

N/A

This completed EIA will need to be countersigned by your Head of Service. **Please forward completed and signed forms to the Principal HR Officer.**

All completed EIAs will need to be scrutinised and verified by the Council's Equal Opportunities Working Group (EOWG) and published on the Council's Intranet to demonstrate to local people that the Council is actively engaged in tackling potential discrimination and improving its practices in relation to equalities. Please be aware that you may be asked to attend a half-an-hour session to summarise the findings of the EIA to the Scrutiny and Verification panel.

Signatures:

	Stewart Broome	19/6/2015
Completing Officer:	_____	Date: _____
Head of Service:	_____	Date: _____