

ANNUAL REVIEW OF FEES AND CHARGES 2023/2024

To:

Licensing Committee 30/01/2023

Report by:

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Wards affected:

All

1) Introduction / Executive Summary

- 1.1 Cambridge City Council, as the Licensing Authority, is responsible for processing and issuing licences for a wide range of activities.
- 1.2 The Council needs to demonstrate that the fees it charges for such licences have been set in accordance with the law and best practice, so as to recover its allowable costs in administering the various licensing regimes for which it is responsible.
- 1.3 Fees should be set so as to avoid either a surplus or a subsidy where possible and adjusted, if necessary, in succeeding years to achieve and maintain the correct balance.
- 1.4 The calculation of the taxi and private hire fees and charges 2023/24, considered specific officer role and their time involved in the issuing and processing of applications, in addition to the administration and monitoring of compliance with conditions.

- 1.5 The costs involved in carrying out all the processes and the true costs of running a taxi service, have been calculated and these are the fees that went out for consultation as attached in Appendix A
- 1.6 The costs were also compared to the existing fees as attached as Appendix D and this has shown that there has been a significant increase in some costs since they were last reviewed in 2020.
- 1.7 Following feedback from the consultation and discussion with the Chair of Licensing, it was felt that it would be unreasonable at this time to make such a large increase on some of the fees and therefore in consultation with Chair of Licensing the fees for some of the processes have been amended as attached in Appendix E
- 1.8 This report sets out the revised fees and charges for licences and associated items, which it is proposed should be made with effect from 1st April 2023. The approved charges will be submitted to Full Council to note on 23rd February 2023.

2) Recommendations

- 2.1 Members are recommended to approve the level of the fees and charges with effect from 1st April 2023, as set out in Appendix E.
- 2.2 Members are to request officers to communicate changes with members of the public, businesses and taxi trade.

3) Background

- 3.1 Cambridge City Council is required to review any charges which it makes for licences and other associated items, from time to time. Council policy provides that an annual review of these fees and charges will be undertaken.
- 3.2 The Council must seek to recover the costs associated with processing applications for licences as well as the administration and monitoring of compliance with conditions. The fees charged should be capable of withstanding legal challenge, should the need arise.

- 3.3 It is not permitted to make a surplus, nor to subsidise, licence holders, and so where necessary fees are adjusted in succeeding years to achieve and maintain the correct balance.
- 3.4 The cost to the Council of this work is regularly checked and real time costs are used in compiling the figures. Where it is possible to reduce costs by use of more efficient working this is reflected in the charges made.

4) Fees for Animal Welfare Licensing

- 4.1 The fees for the majority of Animal Welfare Licensing were adopted by Licensing Committee on 1st October 2018, following on from the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 taking effect on 1st October 2018. These fees have increased in line with inflation.
- 4.2 In contrast the fees for both zoos and dangerous wild animals have not changed regime and have increased by 9.4%, in line with the rate of inflation.

5) Fees for Skin Piercing Registrations and Sex Establishment Licensing

- 5.1 Fees for skin piercing practices and sex establishments have increased following review of associated costs in processing.

6) Fees for Hackney Carriage and Private Hire licensing

- 6.1 Section 53 and 70 of the Local Government (Misc Provisions) Act 1976 ("Act") allows the council to change and levy costs for the grant of licences in respect of hackney carriage and private hire drivers, vehicles and operators.

- 6.2 Section 53(2) of the Act states, in relation to drivers' licences for hackney carriage and private hire vehicles:

"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.”

6.3 Section 70 of the Act states, in relation to vehicle and operators’ licences:

“(1) Subject to the provisions of subsection (2) of this section, 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.”

6.4 The costs recoverable within licence fees include, costs of issuing and administering licences. This includes costs associated with the monitoring and enforcement of such licenses.

6.5 There has been previous unclarity, if monitoring and enforcement, could be charged under Section 53 (2) in respect to drivers.

6.6 However, in 2019 in a Court of Appeal with Master of the Rolls, King LJ and Lavender J stated:

“46. In any event, we consider that the costs of enforcing the behaviour of licensed drivers can be recovered through the driver’s licence fee under section 53(2). The relevant words in that provision are “the costs of issue and administration”. The costs of “administration” must be something other than, and in addition to, the costs of “issue”. There is no difficulty in interpreting “administration” in its statutory context as extending to administration of the licence after it has been issued. It naturally includes the costs of suspension and

revocation, which are events expressly mentioned in Part II of the 1976 Act.

Suspension and revocation rest on non-compliance with the requirements and conditions for continuing to hold the licence. As we have said, it would therefore have been obvious to Parliament, when enacting the 1976 Act, that costs would be incurred by the district council in monitoring compliance with such requirements and conditions.”

“48. For those reasons, both on the literal wording of section 53(2) and, if and so far as necessary, applying a purposive interpretation, we consider that the costs of monitoring and enforcing the behaviour of licensed drivers can be recovered through the fee under section 53(2).”

- 6.7 The Council cannot make a profit from licence fees and there must be a carry forward of any surplus. There can also be recovery of any deficit.
- 6.8 In *R v Westminster City Council, ex parte Hutton* (1985) 83 L.G.R. 461. The court held that where the fee income generated in one year fails to meet the costs of administering the licensing system, it is open to the local authority to make a proportionate increase in the licence fee for the following year so as to recoup the cost of the shortfall (Hutton at p 518).
- 6.9 This longstanding principle was confirmed in *Hemming* [2012] EWHC 1260 (Admin).
- 6.10 In the case of *Hemming* (2012), The court determined licence fee surpluses as well as deficits are to be carried forward. The licensing authority is not entitled to make a profit. The court did not require pin-point precision year on year.
- 6.11 The council does not have to adjust the licence fee every year to reflect any previous deficit or surplus, so long as it ‘all comes out in the wash’ eventually. And the adjustment does not have to be precise: a rough and ready calculation which is broadly correct will suffice.

Recent years Fees and Changes

6.12 Due to the covid- 19 pandemic, and impact of various lockdowns, Licensing Committee members agreed to no change to licensing fees in April 2021 and April 2022.

Proposed fees and charges

6.13 The calculation of the taxi and private hire fees and charges 2023/24, considered specific officer role and their time involved in the issuing and processing of applications, in addition to the administration and monitoring of compliance with conditions.

6.14 The draft proposed fees and charges 2023/24 compared to those in 2022/23 attached as appendix D, see an increase to a majority of fees and charges.

6.15 Where changes to fees are indicated, these have been made with reference to the costs involved in the work required, rather than a standardised approach.

6.16 There has been changes in taxi licensing processes, which has seen an increase to the processing and enforcement work required for licences/applications.

6.17 In July 2020 the Department for Transport (DfT) published its [‘Statutory Taxi & Private Hire Vehicle Standards’](#) guidance document. The recommendations contained within replace the relevant sections of the DfT’s [‘Best Practice Guidance’](#) issued in 2010. The DfT advised licensing authorities to publish their consideration of the new ‘Standards’ by the end of January 2021 in the interests of transparency.

6.18 On 25th January 2021, committee report was presented to Licensing Committee with 13 standards requiring consideration, which were subsequently approved.

6.19 These included, competing Enhanced DBS checks for licenced drivers every 6 months and requiring a basic DBS check for non-driver proprietors every 12 months.

- 6.20 The charge for the DVLA Data Checks, is determined by the provider License Bureau/continuum . The current fee remains unchanged. Any future changes to the associated price are in line with the charges made by the third party company that undertakes this work. These prices will be reflected in fees immediately on date License Bureau specify.
- 6.21 The charge for Enhanced Disclosure & Barring Service Check (DBS) is determined by the Disclosure & Barring Service. Any future changes announced by DBS will be reflected in fees immediately on date DBS specify.

Additions and changes to fees

- 6.22 A fee for Change of vehicle registration has been split between HCV and PHV taking into account material costs differences between HCV and PHV plates.
- 6.23 Structure for the payments for knowledge test and safeguarding test have been amended due to slight differences in processing procedures. Initial cost for first attempt of Knowledge Test and Safeguarding Test have been previously separate, however it is proposed from April 2023, they are joined. Subsequent tests will be changed separately for the knowledge and safeguarding test.
- 6.24 In regards to non – driver proprietor basic DBS checks, not all vehicles include an additional non-driver proprietor. Majority sit with HCV, which can have between 1 and 4 non -driver proprietors. Due to this, it was felt that adding the additional processing tasks and associated costs to vehicle licensing fee was not proportionate. A standalone annual fee has been created to recover associated costs for managing non-driver proprietors.

Amendments following consultation

- 6.25 Following feedback from the consultation and petition as attached as Appendices B and C and discussion with the Chair of Licensing, it was felt that it would be unreasonable at this time to make such a large increase on some of the fees and therefore in consultation with Chair of Licensing the fees for some of the processes have been amended as attached in Appendix E.

7) Fees and Charges for training

- 7.1. Fees for training given by Council officers in respect of Award for Personal Licence Holders Level 1, fee has increased by 8.7%.
- 7.2. Fees for BIIAB Level 2 Award for Personal Licence Holders has increased by 9.8% following recalculation of officer time and resources used to complete training.

8) Fees for licences and permits issued under the Licensing Act 2003

- 8.1 Fees for licences issued under the Licensing Act 2003 are currently fixed by central government and are included for information only. Cambridge City Council is not permitted to deviate from these figures.

9) Fees for licences and permits issued under the Gambling Act 2005

- 9.1 Fees for permits issued under the Gambling Act 2005 are currently fixed by central government and are included for information only. Cambridge City Council is not permitted to deviate from these figures.
- 9.2 In contrast licences issued under the Act are subject to maximum levels as laid down by the Department of Culture, Media and Sport.

10) Fees for street trading licences

- 10.1 City Centre Management administer the fees for street trading licences. The current fees have been reviewed and officers have confirmed no change to fees

11) Implications

a) Financial Implications

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The charges are set to recover the Council's allowable costs. The Council cannot make a profit and must carry forward any surplus. Any deficit is carried forward and will be recovered in subsequent years. Surpluses or deficits will be considered when fee setting in future years with the objective of recovering or refunding any surplus or deficit

b) Staffing Implications

Staff will be required to update relevant information on the Cambridge City Council Website, Environmental Health management system and send out required communication to stakeholders. These costs are to be absorb in daily job requirements.

c) Equality and Poverty Implications

Nil.

d) Net Zero Carbon, Climate Change and Environmental Implications

Nil.

e) Procurement Implications

Nil.

f) Community Safety Implications

Nil.

12) Consultation and communication considerations

- 11.1 Under the Local Government (Miscellaneous Provisions) Act 1976, the Council is required to consult on any changes to the fees and charges in respect of vehicle and operator licences.
- 11.2 There is no such requirement under section 53 (2) for the Act for driver licences to be advertised. However the same procedure has been adapted.
- 11.3 A public consultation took place from 30 November 2022 to 6 January 2023. The consultation was advertised by public notice in Cambridge News and notice was displayed at Cambridge City Council main officer. All licence holders were advised of consultation via e-mail and also received a copy of the proposed fees and charges (Appendix A) attached within an e-mail.
- 11.4 Nine (9) consultation responses were received, which are illustrated in Appendix B. All responses received acknowledgement e-mail. Six (6) respondents were directly provided with the fees and charges spreadsheet used to calculate fees. Following further correspondence two (2) respondents requested budget, copy of total budget was provided (document also out as part of consultation of wider budget consultation).
- 11.5 Signed petition was also received, containing 104 signatures, as part of the consultation on 29th December 2022. Appendix C.
- 11.6 Consideration was taken to responses received, in respect to increasing fees and charges. Following discussions between Environmental Health Manager and Environmental Health and Licensing Support Team Leader, and subsequent discussion with Chair of Licensing a decision was taken to amend some of the fees for certain processes and therefore the above recommendations as detailed in section 2 should still be considered.

13) Background papers

- Hemming (2012) EWHC 1260 (Admin)
- Hemming [2013] EWCA Civ 591

Rehman (On Behalf of the Wakefield District Hackney Carriage And Private Hire (2019 EWCA Civ 2166

14) Appendices

Appendix A - Consultation document shared as part of public consultation

Appendix B - Consultation responses

Appendix C – Summary of Petition

Appendix D- Draft Table of proposed fees and charges 2023/24 compared to 2022/23

Appendix E – Table of proposed fees and charges 2023/24 as amended following consultation

15) Inspection of papers

To inspect the background papers or if you have a query on the report please contact Wangari Njiiri , Environmental Health and Licensing Support Team Leader, tel: 01223 - 458533, email: wangari.njiiri@cambridge.gov.uk.