

NORTHAMPTON BOROUGH COUNCIL

Licensing Committee

Your attendance is requested at a meeting to be held at The Jeffrey Room, St. Giles Square, Northampton, NN1 1DE on Tuesday, 19 March 2013 at 6:00 pm.

**D Kennedy
Chief Executive**

AGENDA

1. Apologies
2. Minutes
To approve the minutes of the meeting held on 11 February 2013 (copy herewith).
3. Deputations / Public Addresses
4. Declarations of Interest
5. Matters of Urgency which by reason of special circumstances the chair is of the opinion should be considered
6. Review of Hackney and Private Hire Fees
7. Safety Awareness Course
8. Exclusion of Public and Press
The Chair to Move:
“that the public and press be excluded from the remainder of the meeting on the grounds that there is likely to be disclosure to them of such categories of exempt information as defined by section 100(1) of the Local Government Act 1972 as listed against such items of business by reference to the appropriate paragraph of Schedule 12a to such act.”

Public Participation

Members of the public may address the Committee on any non-procedural matter listed on this agenda. Addresses shall not last longer than three minutes. Committee members may then ask questions of the speaker. No prior notice is required prior to the commencement of the meeting of a request to address the Committee.

LICENSING COMMITTEE

Monday, 11 February 2013

PRESENT: Councillor Malpas (Chair); Councillor Hill (Deputy Chair); Councillors Beardsworth, Capstick, Duncan, Eales, Ford, Patel, Sargeant, Strachan and Wire.

1. APOLOGIES

There were none.

2. MINUTES

The minutes of the meeting held on 11 December 2012 were confirmed and signed by the Chair as a true record.

3. DEPUTATIONS / PUBLIC ADDRESSES

Chief Constable Adrian Lee and Mark Sawyer of Pubwatch were granted leave to address the Committee in respect of item 6: Early Morning Restriction Orders and Late Night Levy, and Mr Gallone, Mr O'Boyle and Mr Brindisi in respect of item 7: Street Trading Fees and Consents.

4. DECLARATIONS OF INTEREST

Councillor Ford declared a personal interest in item no. 8: Review of Car Boot Sale Conditions and Fees as a member of the Board of the Sixfields Trust. He and the Board had a particular preference and therefore he considered his views were pre-determined and so he left the room and took no part in the discussion or voting on the item.

5. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED

There were none.

6. EARLY MORNING RESTRICTION ORDERS AND LATE NIGHT LEVY

A Senior Licensing Officer presented a report in respect of changes made to the Licensing Act 2003 through The Police Reform and Social Responsibility Act 2011 with regard to Early Morning Restriction Orders (EMROs) and Late Night Levies. The changes with regard to both these areas only took effect on 31 October 2012.

The Senior Licensing Officer made it clear that the report was to determine if Councillors wished to move forward with the local authority seeking views and compiling evidence on the implementation of any EMRO. If the Committee decided to move forward with it, it would then allow applications for EMROs to be made to this authority. The Senior Licensing Officer went on to state that when evidence had been gathered and there was a suggestion that an EMRO was a possible solution, then this would be brought back before the Committee for the Licensing Committee to consider the evidence and decide if there should be a move forward onto the formal consultation process.

Chief Constable Adrian Lee addressed the Committee. He stated that the Police were in favour of an Early Morning Restriction Order in Northampton but considered that it was right not to pursue a Late Night Levy in the foreseeable future. The legislation allowed EMROs to cover the period midnight-6am but his preference, if an application for one was to be made,

would be from 2am or 3am until 6am as this was the time period in which most of the crime and anti-social behaviour took place in the town centre. The Police would work with licensees to improve safety and opportunities for enjoyment in the town centre. As part of any proposed consultation in the future the Police would work with the trade, such as licensees, other parties to produce evidence and would seek data from the NHS and the hospital A&E department about alcohol related injuries and issues.

In answer to a Member's Question, the Chief Constable stated that he did not consider the current licensing arrangements were working well and that there were problems with anti-social behaviour, particularly in areas like Bridge Street at around 3am and these were taking up many Police resources. He wanted to make the town centre a safer place.

Mark Sawyer, a licensee and Pubwatch representative addressed the Committee. He stated that licensees worked closely with the Police and tried to run their premises in the correct manner. He did not necessarily disagree with EMROs but the imposition of one would mean that some town centre late night premises would go out of business. He stated that people were now going out drinking at later times and had often had several cheap drinks before they went out ("pre loading"). Licensees did not know how long it would be before such people then caused problems in their premises and when they were evicted they then caused issues on the street for the Police. This was a wider issue and he was not sure what action could be taken. He suggested that taxi drivers might be asked not to bring people into the town centre if those people were drunk. People could also be encouraged to begin their nights out earlier and finish them earlier than many currently did.

A Member stated that one of the intentions of 24 hour licensing had been to prevent licensed premises all emptying at the same time and large numbers of people being discharged on to the streets together and insufficient taxis to take them all home. He suggested that an EMRO would re-create that same situation.

The Chief Executive confirmed that the Committee was not being asked to agree a consultation at this stage but to agree that if an EMRO is applied for, evidence be gathered regarding the feasibility of imposing an EMRO. The Committee would then consider whether consultation should take place in relation to the application for that particular EMRO. That consultation, if agreed, would include all licensees. At any meeting held at the initial application stage, the Committee would receive information on the numbers of premises which would be affected and how any EMRO could be imposed and managed.

It was noted that the final decision on whether or not an EMRO was made in the Borough, either covering all or only certain parts of the Borough would be made by Full Council, based on recommendations from a future meeting of this Committee.

Members, after consideration, felt that it would be inappropriate to introduce a borough wide Late Night Levy in the Borough in the foreseeable future.

RESOLVED:

1. That the contents of the report be noted.
2. That the feasibility of adopting and implementing Early Morning Restriction Orders within the Borough of Northampton be investigated.
3. That a full consultation process for an Early Morning Restriction Order be commenced if any future proposals are agreed.
4. That it be agreed not to proceed with a Late Night Levy for the Borough of

Northampton for the foreseeable future.

7. STREET TRADING FEES AND CONSENTS

A Senior Licensing Officer informed the Committee of the results of the consultation undertaken regarding the proposed increase in street trading fees and amendments to the street trading consent locations. Three objections had been received to the proposals. The Committee had agreed the consultation at its previous meeting, held on 11 December 2012.

It was noted that the actual locations for street trading were still to be considered and would be brought to the Committee at a future meeting. Also noted was a revised Appendix 4 to the report, which was tabled, showing the updated income structure to include future income projections against expenditure.

Mr Gallone (ice cream seller) addressed the Committee. He stated that Gallone's Ice Cream had been trading at the Abington Park site for at least eighty years and was concerned that the Council wished to move his position on the basis of road safety issues. A Freedom of Information request had indicated that there had been no such issues since records began. He stated that the current fees were very reasonable but the proposals would represent a 600% increase in fees over three years and that all he received for the fees was a pitch. He asked that if the fees were increased that the pitch be marked out for his van. He stated that any increases in fees would have to be passed on to customers, which would make his ice creams less affordable to families visiting the park in the current economic climate. Mr Gallone stated that there were three concessions, including his own, very close together and that realistically they were one unit.

A Member expressed concerns about the site of the concession as it was on a through road. The Senior Licensing Officer stated that the Committee was not being asked to consider locations at this meeting. She also stated that the fees referred to by Mr Gallone were those proposed for new premium park sites and not for all street traders and that market traders had a different fee structure.

Mr O'Boyle (fast food seller) stated that he operated on a site on an industrial estate. He appreciated that the fees had to be increased but his fees would rise from £500 to £1,000 in one year and he had already had to reduce his trading from six to five days per week. He had opened at 7am on the morning of 11 February 2013 but not had a customer until 9am. Mr O'Boyle stated that industrial units were closing, which affected his business, and that he was facing competition from fast food vans which were operating out of commercial units. These operators did not pay site fees, as he did, but did pay business rates.

Mr Brindisi (ice cream seller) addressed the Committee. He stated that he operated a concession on the Abington Park site next to Mr Gallone and that many of the points he wished to make had already been raised by Mr Gallone. Mr Brindisi stated that he and Mr Gallone were local businesses and might not be able to continue as the proposed increases were not sustainable. He queried if it was intended to increase fees after the three year period quoted in the report. (The Senior Licensing Officer stated that the proposed increases would bring the fees into line with those of similar local authorities and bring the income in line to recover costs. All licensing fees would then be looked at on a regular basis, probably annually, to decide if an increase was needed to reflect the delivery of service costs.)

In answer to Members' questions, Mr Brindisi stated that the increase in fees would amount to 600% over the three year period quoted in the report (2013/14-2015/16). A Member queried this increase as it seemed inaccurate. The Senior Licensing Officer stated that this was the trader's projection by adding the 200% increase to each year through to 2016.

Members considered that the proposed increases were excessive and that the street traders should not be penalised by such a large increase as a result of the Council not increasing its fees since they were introduced in 2003. It was suggested that the officers should look at the issue again and consider how the Street Trading fees might be more gradually increased

RESOLVED:

That the officers be asked to re-consider the proposed increases to Street Trading fees and present a revised report to the Committee indicating a more phased increase.

8. REVIEW OF CAR BOOT SALE CONDITIONS AND FEES

Councillor Ford declared a personal interest in this item as a member of the Board of the Sixfields Trust. He and the Board had a particular preference and therefore he considered his views were pre-determined and so he left the room and took no part in the discussion or voting on the item.

It was noted that permits for car boot sales were only issued to recognised charities or non-profit making bodies and that traders were not allowed to operate at these events.

RESOLVED:

That with effect from 1 March 2013:

- (i) Fees for Car Boot Sales be increased in line with Appendix A of the officers' report;
- (ii) That following requests from the organisers of such events the existing Car Boot Sale Conditions (1) and (3) of the Borough be amended to read:

(1) Frequency, Size and Number of Events

No more than 12 car boot sales or similar events ("events") may be held on any one site per year, with at least 14 days between each event. Organisers should ascertain whether planning permission is required. Each event shall be limited to not more than 200 pitches.

(3) Duration of Events

Events in residential areas shall not commence before 8.00am and shall finish no later than 4.00pm, with a maximum duration of four hours.

9. REVIEW OF HACKNEY AND PRIVATE HIRE FEES

The Chair announced that this item had been deferred due to the number of other reports to be considered at this meeting. The report would be considered at the next meeting of the Committee, as that would still be within the statutory time period for the results of the consultation to be considered.

10. EXCLUSION OF PUBLIC AND PRESS

The Chair moved that the Public and Press be excluded from the remainder of the meeting on the grounds that there was likely to be disclosure to them of such categories of exempt information as defined by Section 100(1) of the Local Government Act 1972 as listed against such items of business by reference to paragraph (1) of Schedule 12A to such Act.

The Motion was Carried.

11. APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

A Senior Licensing Officer outlined the circumstances of the applicant in relation to the application.

The Committee heard the representations made by the applicant and reached a decision with regard to action to be taken on the basis of the evidence presented and the representations made.

RESOLVED:

That the applicant on a balance of probability, taking his convictions into account, was not a fit and proper person to hold a Private Hire Driver's Licence.

12. HOUSE TO HOUSE APPLICATION

A Senior Licensing Officer outlined the circumstances of the application set out in the report. The applicant had not previously applied for a House to House Collection permit in the Borough of Northampton and did not hold a National Exemption Order.

The Senior Licensing Officer stated that the applicant had been contacted and stated that he was aware of the date of the Committee meeting but was not present at the meeting. The applicant had been requested to provide further information in respect of the application but this had not been received. The applicant had also indicated that he wished to change some details of the application and the changes had been requested in writing but had not been received.

RESOLVED:

That the application be not granted on the following grounds:

- (i) That the total amount likely to be applied for charitable purposes as a result of the collection (including any amount already so applied) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received);
- (ii) That the applicant of the licence has refused or neglected to furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the application.

The meeting concluded at 8:05 pm.

Appendices
4



NORTHAMPTON
BOROUGH COUNCIL

LICENSING COMMITTEE REPORT

Report Title	Review of Hackney and Private Hire Fees
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	19 March 2013
Policy Document:	Hackney/Private Hire Licence Fees
Directorate:	Customers and Communities

1. Purpose

1.1 To inform the committee that following the objection period the increase subject of the report 11 December 2012 will be introduced with effect from the 1 April 2013.

2. Recommendations

2.1 That with effect from 1 April 2013 the above fees be revised in line with the recommendations at Appendix A.

3. Issues and Choices

3.1 Report Background

3.1.1. The Licensing Committee of 11 December 2012 recommended that the fees as at Appendix A be introduced from 1 April 2013.

3.1.2. All Operators were notified with regard to the proposed increases and were asked to cascade that information to all drivers within their company.

3.1.3 This gave those most affected by the increases the opportunity to make their objections.

3.1.4 An advertisement was also placed in the local press setting out the new fee structure the same information was also available on the Council website, . inviting any objections to be made in writing to the licensing department.

3.1.3. Although one objection was initially received this was later withdrawn.

4.1 Choices (Options)

4.1.1. The increase in fees will now be introduced in line with the committee decision on 11 December 2013.

5. Implications (including financial implications)

5.1 Policy (Hackney and Private Hire Licensing)

There are no new policy implications.

5.2 Resources and Risk

N/A

5.3 Legal

5.3.1 The Local Government (Miscellaneous Provisions) Act 1976, S53 (2) allows the Local Authority to set fees in respect of drivers licences for both Hackney Carriages and Private Hire Vehicles.

5.3.2 S70 of the same act allows a local authority to set fees in respect of Hackney Carriage proprietor's licences, Private Hire Vehicle licences and Private Hire Operator's licences.

5.3.3 The cost of a licence has to be related to the cost of the licensing scheme itself, and can be set to be subsidised by the Council but cannot be set to make a surplus.

5.4 Equality

5.4.1. An equality impact assessment has been undertaken and the key equalities factor was identified as being a negative financial impact on the trade if the increase in fees is introduced. (Appendix B)

5.5. Resources and Risk

5.5.1. There is no recognised financial risk, the Licensing Team will continue to administer and enforce the issue of Hackney and Private Hire Licenses.

5.5.2. The estimated increase in revenue if these proposals are adopted will help to pay for the increased costs in both administration and compliance.

5.5.3. This will reduce the amount the service is subsidised by other resources. (i.e The Council Tax payer).

5.6. Consultees (Internal and External)

5.6.1. Legal

5.6.2.Finance.

5.7. Background Papers

5.7.1.Local Government (Miscellaneous Provisions) Act 1976. (Relating to Hackney and Private Hire fees).

5.7.2.Taxis-Licensing Law and Practice – James Button.

Report Author: Philip Bayliss
Senior Licensing Officer
ext7099

LICENCE		2012/13	2013/14
New Grant/ Renewal		45.50	50.00
Renewal of licence with CRB		91.50	101.00
Failure to attend Appointment		10.00	15.00
Combined New Grant / Renewal		57.00	63.00
Hackney Carriage written Test		50.00	55.00
Replacement HC or PH Badge		15.00	20.00
Replacement HC or PH Licence		20.00	25.00
Temporary Private Hire/ Hackney Badge		10.00	15.00
New Private Hire/Hackney Application (inc bracket)		90.00	99.00
Vehicle Licence every 6 months		85.00	93.00
Transfer of vehicle		10.00	12.00
Replacement Vehicle Plate		15.00	16.00
Replacement Vehicle Licence		20.00	22.00
Replacement Platform Plate		10.00	15.00
Replacement Condition Booklet		5.00	6.00
Replacement Fixing Bracket		10.00	15.00
	Vehicles		
New Private Hire Operators Licence		300.00	330.00
Operator Number of Vehicles	1	200.00	220.00
	2-5	300.00	330.00
	6-9	400.00	440.00
	20-29	500.00	550.00
	30-39	600.00	660.00
	40-49	700.00	770.00
	50-59	800.00	880.00
	60-69	900.00	990.00
	70-99	1000.00	1100.00
	100-149		1300.00*
	150-199		1500.00*
	200+		1800.00*
Notification – Change of operator		200.00	220.00
Driver Induction Course		350.00	370.00
Recovery of monies, cheque not honoured		30.00	35.00

*These new fees have been introduced in order that cost can relate more to the size of our current Private Hire Operators. Over recent years companies have increased the number of vehicles that they operate and a fee has been introduced to account for the increased work load that this entails.



Equality Impact Assessment Part 1: Screening

When reviewing, planning or providing services Northampton Borough Council needs to assess the impacts on people. Both residents and staff, of how it works - or is planning to – work (in relation to things like disability). It has to take steps to remove/minimise any harm it identifies. It has to help people to participate in its services and public life. **“Equality Impact Assessments” (EIAs)** prompt people to think things through, considering people’s different needs in relation to the law on equalities. The first stage of the process is known as ‘screening’ and is used to come to a decision about whether and why further analysis is – or is not – required. EIAs are published in line with transparency requirements.

A helpful guide to equalities law is available at: www.northampton.gov.uk/equality. A few notes about the laws that need to be considered are included at the end of this document. Helpful questions are provided as prompts throughout the form.

1 Name of policy/activity/project/practice	This is a proposal to increase the fees for Hackney and Private Hire Vehicles, Drivers and Operators.
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2. Screening undertaken (please complete as appropriate)	
Director or Head of Service	Steve Elsey
Lead Officer for developing the policy/activity/practice	Philip Bayliss
Other people involved in the screening (this may be people who work for NBC or a related service or people outside NBC)	Steve Elsey, Debbie Ferguson, Licensing Legal Team, Silvina Katz, Communications Team.

3. Brief description of policy/activity/project/practice: including its main purpose, aims, objectives and projected outcomes, and how these fit in with the wider aims of the organisation.

Please note that the increase relates to both Hackney Carriages and Private Hire Vehicles and Operators.

- To request that the Licensing committee determine whether an increase in fees relating to Hackney and Private Hire vehicles and drivers and Operators are appropriate and justified at this time. We will be advertising the proposed increases in a local newspaper and consulting with stakeholders to identify issues and consider any objections to the proposed increases.

The Local Government (Miscellaneous Provisions) Act 1976, S53 (2) allows the Local Authority to set fees in respect of drivers licences for both Hackney Carriages and Private Hire vehicles.

In adopting the Local Government (Miscellaneous Provisions) Act 1976 The Local Authority is able to levy fees in respect of driver's licences for both Hackney Carriages and Private Hire drivers (sec 53(2)) and Hackney Carriage Proprietor licenses and Private Hire vehicle and Operator licenses (sec 70).

The authority does not have the discretion to charge whatever it likes for a licence. The cost of the licence has to be related to the cost of the scheme itself.

4 Relevance to Equality and Diversity Duties

- By increasing the licence fees for hackney carriages, private hire vehicles, drivers and operators all licence holders will be subject to the increase. All groups identified as being affected will be affected equally.
- The consultation when carried out will establish whether there are valid objections to any increase in fees.
- The consultation itself will provide evidence of any significant impact on any group and whether the increase would create financial hardship.
- Any decision must be made taking into consideration the current financial climate.
- There would also be an indirect effect on the paying public as increased costs to the trade would be passed on to customers.

If you have indicated there is a negative impact on any group, is that impact:

Legal?

Yes
No

Please explain: We are consulting with all interested parties including those owners

who may be affected by the proposals.

There is no intention for the proposal to have a negative impact on any particular group. The proposal is aimed at recovering the cost of the licensing service to the council. If this is not achieved the service will run at a deficit.

5 Evidence Base for Screening

Equality Human Rights Commission

<http://www.equalityhumanrights.com/resources/case-studies-of-how-organisations-are-using-the-duties/case-studies-equality-impact-assessments/>

Vehicle Owner Ethnicity - NBC Licensing Records.

6 Requirements of the equality duties:

(remember there's a note to remind you what they are at the end of this form and more detailed information at www.northampton.gov.uk/equality)

Will there be/has there been consultation with all interested parties?

No but it is intended

Initial consultation has taken place internally with both legal and finance to ensure we are proceeding with this process in the correct way.

Once the increase has been advertised in a local newspaper there will be a 28 period for any person to make their objections.

Any objections received will then be considered by the Licensing Committee.

Are proposed actions necessary and proportionate to the desired outcomes?

Yes

We are required to advertise the proposed increase in fees and give a reasonable time for any objections to be made. We are aware of the potential impact and are therefore not predetermining any decision. We feel that the introduction of these proposals are reasonable to assess our desired outcomes of cost recovery.

Where appropriate, will there be scope for prompt, independent reviews and appeals against decisions arising from the proposed policy/practice/activity?

Yes

Any decision taken by the Licensing Committee can be appealed through the Magistrates Court and by Judicial review

Does the proposed policy/practice/activity have the ability to be tailored to fit different individual circumstances?

No

An increase in fees will apply to the whole of the trade.

Where appropriate, can the policy/practice/activity exceed the minimum legal equality and human rights requirements, rather than merely complying with them?

From the evidence you have and strategic thinking, what are the key risks (the harm or ‘adverse impacts’) and opportunities (benefits and opportunities to promote equality) this policy/practice/activity might present?

	Risks (Negative)	Opportunities (Positive)
Race	<p>There would not be a disproportionate negative impact on drivers/owners from minority backgrounds.</p> <p>However any increase in fees could result in an increase in fares or a reduction in the number of vehicles available.</p>	
Disability	<p>The introduction of the proposals should not result in a reduction of wheelchair accessible vehicles. Fees will apply to all vehicles.</p> <p>However any increase in fees could result in an increase in fares or a reduction in the number of vehicles available.</p>	
Gender or Gender Identity/Gender Assignment	<p>No risks have been identified at this stage.</p> <p>However any increase in fees could result in an increase in fares or a reduction in the number of vehicles available.</p>	
Pregnancy and Maternity (including breastfeeding)	<p>No risks have been identified at this stage.</p> <p>However any increase in</p>	

	fees could result in an increase in fares or a reduction in the number of vehicles available.	
Sexual Orientation	No risks have been identified at this stage. However any increase in fees could result in an increase in fares or a reduction in the number of vehicles available.	
Age (including children, youth, midlife and older people)	No risks have been identified at this stage. However any increase in fees could result in an increase in fares or a reduction in the number of vehicles available.	
Religion, Faith and Belief	No risks have been identified at this stage. However any increase in fees could result in an increase in fares or a reduction in the number of vehicles available.	
Human Rights	No risks to Human rights have been identified at this stage. However any increase in fees could result in an increase in fares or a reduction in the number of vehicles available.	

7 Proportionality

The objection period will attempt to ensure that all groups have an opportunity to input into this process.

All drivers and owners will be contacted and provided with the information they need.

There could be a negative response from the trade as would be expected having regard to the current financial climate.

8 Decision

Set out the rationale for deciding whether or not to proceed to full impact assessment

Date of Decision: .../.../20...

EITHER: We judge that a full impact assessment is not necessary since:

OR: We judge that a full impact assessment is necessary since:

1. Equality Duties to be taken into account in this screening include:

Prohibited Conduct under The Equality Act 2010 including:

Direct discrimination (including by association and perception e.g. carers); Indirect discrimination; Pregnancy and maternity discrimination; Harassment; third party harassment; discrimination arising from disability.

Public Sector Duties (Section 149) of the Equality Act 2010 for NBC and services provided on its behalf: (due to be effective from 4 April 2011)

NBC and services providing public functions must in providing services have due regard to the need to: **eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity and foster good relations between different groups.** 'Positive action' permits proportionate action to overcome disadvantage, meet needs and tackle under-representation.

Rights apply to people in terms of their "Protected Characteristics":

Age; Gender; Gender Assignment; Sexual Orientation; Disability; Race; Religion and Belief; Pregnancy; Maternity. But Marriage and Civil Partnership do not apply to the public sector duties.

Duty to "advance equality of opportunity":

The need, when reviewing, planning or providing services/policies/practices to assess the impacts of services on people in relation to their 'protected characteristics', take steps to remove/minimise any negative impacts identified and help everyone to participate in our services and public life. **Equality Impact Assessments** remain best practice to be used. Sometimes **people have particular needs** e.g. due to gender, race, faith or disability that need to be addressed, not ignored. NBC must have due regard to the **duty to make reasonable adjustments** for people with disabilities. NBC must **encourage people who share a protected characteristic to participate in public life** or any other activity in which their participation is too low.

Duty to 'foster good relations between people'

This means having due regard to the need to **tackle prejudice** (e.g. where people are picked on or stereotyped by customers or colleagues because of their ethnicity, disability, sexual orientation, etc) and **promote understanding**.

Lawful Exceptions to general rules: can happen where action is proportionate to achieve a legitimate aim and not otherwise prohibited by anything under the Equality Act 2010. There are some special situations (see Ch 12 and 13 of the Equality Act 2010 Statutory Code of Practice – Services, Public Functions and Associations).

2. National Adult Autism Strategy (Autism Act 2009; statutory guidelines) including:

3. to improve how services identify and meet needs of adults with autism and their families.

4. Human Rights include:

5. Rights under the European Convention include not to be subjected to degrading **treatment**; **right to a fair trial** (civil and criminal issues); **right to privacy** (subject to certain exceptions e.g. national security/public safety, or certain other specific situations); **freedom of conscience** (including religion and belief and rights to manifest these limited only by law and as necessary for public safety, public order, protection of rights of others and other specified situations); **freedom of expression** (subject to certain exceptions); **freedom of peaceful assembly and to join trade unions** (subject to certain exceptions); **right not to be subject to unlawful discrimination** (e.g. sex, race, colour, language, religion, political opinion, national or social origin); **right to peaceful enjoyment of own possessions** (subject to certain exceptions e.g. to secure payment of taxes or other contributions or penalties); **right to an education**; **right to hold free elections by secret ballot**. The European Convention is given effect in UK law by the Human Rights Act 1998.

Julie Seddon
Director of Environment & Culture



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Our Ref:

Your Ref:

Please Contact: Philip Bayliss

Ext/Direct Line 01604 837099

Date: 2nd January 2013

E-mail: pbayliss@northampton.gov.uk

Dear Mr Harris

Re: Increase to existing Hackney Carriage & Private Hire Licensing Fees

I write with reference to the above and further to your letter dated 24th December 2013 raising objections to the increase in fees relating to Hackney Carriages and Private Hire drivers, vehicles and operators.

Your reference to the Local Authority holding a monopoly on the above licensing function is somewhat misleading as this is an obligation placed on the Local Authority by Central Government and as such is not dissimilar to the function undertaken by the Driver and Vehicle Licensing Agency and is similarly controlled by Primary Legislation.

The Local Authority can only levy fees designed to recover the cost of administering the service and, as can be appreciated, these costs have risen significantly during the last 4 years (2009), the last time the fees were increased. The current cost of the service is heavily subsidised by the Council Tax payer.

I believe you have notified the Enforcement Officer with regard to the existence of so-called 'rogue drivers'. We have established that in at least one case the 'operator' was not operating within the borough of Northampton and, although we were not able to take action ourselves, we passed that information to South Northamptonshire District Council and a successful prosecution ensued. Any further information provided will be investigated, although I have to emphasise that, the Licensing Department are subject to the same 'burden of proof' as any prosecuting authority.

If I can refer to your understanding of the penalties imposed by the courts, a driver Convicted of Illegally Plying for Hire (maximum fine of £1500.00) would also be prosecuted for 'driving without insurance' and as such would be subject to a maximum fine of £5000.00 plus 6-8 points on their DVLA driving licence. As a professional driver the court would tend to impose the maximum 8 points.

With regard to the Local Authority limiting the number of Private Hire drivers or vehicles it licences. The legislation prohibits the authority from restricting numbers, the Government's view is that each area will reach a 'mean' number of licensed vehicles each community can support.

I now come to the penultimate paragraph regarding your objection and can confirm that following any successful operation, whether it is an 'illegal plying for hire' ('flagging') operation or a 'multi-agency check' a press release is prepared and dispersed to all locally circulated newspapers. We have no control as to whether an individual editor will include this within their newspaper.

The licensing team also make annual visits to the various campus locations in Northampton and address all new intake students with regard to the dangers of using a vehicle not pre-booked to make their way home after a night out in the town centre.

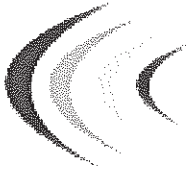
There is a list of all drivers and vehicles licensed by the Local Authority available on the Council website.

The aim of the Council is to ensure that all Hackney and Private Hire drivers are acting lawfully, if you can provide a definitive list of those you believe to be acting illegally I will be happy to make the necessary enquiries to establish if that is the case.

For your information any objections to the increase in fees will be heard at the meeting of the Licensing Committee on 11th February 2013 at 6.00pm at the Guildhall.

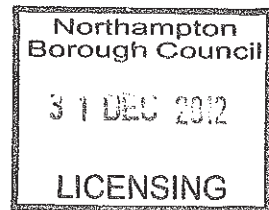
Yours sincerely

P Bayliss
Senior Licensing Officer



● **Voyager UK** ●

UK & AIRPORT TRANSFER SPECIALISTS



Licensing Department,
Northampton Borough Council
St Giles Square
Northampton
NN1 1DE

Monday 24th December 2012

Reference: Objection to increase of Private Hire Fees 2013

To whom it may concern,

I wish to inform you of my objections towards the announced fee increase for Private Hire Vehicles.

My objections include the fact that NBC hold a monopoly on Licensing PH vehicles, drivers and companies and, therefore, can increase their costs as and when decided where the only option available for an objectionable driver is to not licence themselves or vehicles. I have noted a recent increase in drivers operating illegally in the Borough for numerous reasons and feel that any increases in this current financial climate will create additional 'rogue drivers' with them safe in the knowledge that if they are caught without licences or insurance then the maximum fine is only £1,500 and is less than 12 months PH insurance.

I also feel that the time has arrived for NBC to restrict and limit the number of PH drivers in the town as the increase in drivers and companies starting up over the past few years has caused a battle for local business in an already struggling climate.

I feel very strongly that the licensed operator is an easy target for regular inspections, checks and fee increases whilst the 'rogue drivers' continue to operate freely 'under the radar'. There needs to be some kind of publicity increase concerning what a passenger or customer needs to look for to ensure their PH vehicle is licensed and also a list of licensed vehicles, drivers and companies should be readily available online for anyone to be able to access at any time.

I currently pay over £2,000 per year to keep myself, my business and my vehicle operating legally and the thought of this increasing when a fine is only £1,500 maximum does not look like an appealing option and one I am sure many people will be interested to hear, obviously if someone can operate without licences for at least 12 months (and I am aware of people having operated illegally for much longer) then the costs against fines is certainly arguable.

Many thanks for your time in this matter and I look forward to hearing from you once a date for discussion has been arranged.

Best Wishes,

Mr Dean Harris

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Philip Bayliss

From: Voyager UK <enquiry@voyageruk.com>
Sent: 22 February 2013 13:44
To: Philip Bayliss
Subject: Re: Fee increases

Afternoon Phil,

Thanks for your email. I did not feel I would be human if I didn't put forward some form of objection to the rises!!!!

I appreciate the work that you and your team carry out and as your reply was thorough I will be withdrawing my objections to the fee increases.

I was actually chatting with another driver the other day with regards to NBC licensing and stating how recently the enforcement seems to have greatly improved and I do realise how hard a job it must be to keep everyone 'in line' but hope that any future information we can provide to prevent illegal operations will be in strictest confidence, and also I think Ian is a great bonus to your team.

Hope you have a good weekend.

Best wishes,

Dean

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On 22 Feb 2013, at 13:31, Philip Bayliss <pbayliss@northampton.gov.uk> wrote:

Hello Dean

With reference to the above increases recently advertised.

As yours was the only objection received I have been asked whether you are still going to object or whether my response to most of the points raised in your letter have reassured you that the licensing department are continuing to carry out enforcement checks in an attempt to catch those offending drivers.

These checks are on-going and an increase in staff and added support from the police mean that they will develop into more meaningful operations in the future.

Should you wish to continue you will be able to present your objection in person at the next licensing committee meeting on 19/3/2013.

I hope you are well.

Kind regards

Phil

Philip Bayliss
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NORTHAMPTON
BOROUGH COUNCIL

LICENSING COMMITTEE REPORT

Report Title	SAFETY AWARENESS COURSE
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	19 March 2013
Policy Document:	Private Hire Sanctions and Procedures
Directorate:	Customers and Communities

1. Purpose

1.1 The purpose of this report is to inform the Licensing Committee with regard to the proposed introduction of the Safety Awareness Course for drivers who have been acting illegally.

2. Recommendations

2.1 That the above course be introduced as an addition and also the introduction of a phased process of discipline / punishment towards Private Hire Drivers (PHD) who breached conditions and legislation in relation to plying for hire.

2.2 To delegate reasonable powers to the licensing enforcement officers to use their discretion as to when and under what circumstances the alternative action is taken.

3. Issues and Choices

3.1 Report Background

3.1.1 Operation Flag is an operation run to catch drivers illegally plying for hire, and has been run by the Licensing Team since 2008 and although it is regarded as an essential tool in the enforcement role, a great deal of time and effort is spent on the operation and also completing the back office paperwork to present to the court.

3.1.2 The paperwork is necessary to ensure a successful prosecution and unfortunately, due to recent court closures the process can take a long time before

the driver appears before the magistrates. Sanctions imposed on the drivers by the court can be a maximum of:

£2,500 for plying
£5,000 for No insurance
6 – 8 points endorsed on driving licence

3.1.3 To date all prosecutions undertaken by our own legal department have proved successful and the small number of 'not guilty' pleas entered has resulted in the magistrates reaching a 'guilty' verdict and a suitable penalty being imposed.

3.1.4 Costs to the Council have been awarded in most cases.

3.1.5 Once the defendant has been dealt with by the court he will be subject of a further report in order that he can appear before the Licensing Committee to ascertain whether he is a 'fit and proper person' to hold a Private Hire driver's licence.

3.1.6 As with all prosecutions they are time consuming and the licensing team are always looking for other means whereby drivers can be educated in addition to receiving a financial penalty.

3.1.7 Education is an alternative to prosecution.

3.1.8 Due to the current climate and the impact it can have on drivers, and length of time to go through the court system, a phased in process has been considered and piloted:

- The first offence of flagging would result in a caution and option to attend a course within approximately 6 weeks of the offence – the £200 serves primarily as recovery of costs to run the course – not the enforcement, and as secondary purpose it serves as a financial punishment to those who flaunted the legislation. Also, rather than just punished they are also educated and the information relayed at any induction about road safety is re-enforced and upgraded to ensure they understand the potential consequences of their actions.
- Second offence of flagging within a 5 year period, may be reported for prosecution and which may lead to sanctions mentioned in 3.1.2 above, including potential loss of DVLA licence
- Subsequently referred to Licensing Committee, potentially resulting in the loss of PHD licence.

3.1.9 This brings the council in line with other agencies e.g. the speed awareness course run by the police.

3.1.10 To progress this approach the Licensing Team introduced a course for a trial period to re-educate errant drivers, subject to a fixed fee, with the emphasis on the specific offences they are committing.

3.1.11 The fee was set initially having regard to the length of the course and the time spent by officers in preparation, this fee to be adjusted if the process was formally adopted at a later date.

3.1.12 The current Induction Course has a set fee of £350.00 rising to £370.00 from 1 April 2013, the course is a day's course with a knowledge test at the end of the session.

3.1.13 The Safety Awareness Course has a duration of 4 hours and although the suggestion was that a fee of £200.00 would cover the administration cost of the course, the committee may decide, that a higher fee could be justified in this case.

3.1.14 To be given the opportunity to take up the alternative sanction, driver's will have to accept that they are guilty of the offence and accept a 'caution'.

3.1.15 At the end of the course drivers would have to take a knowledge test accompanied with a test on their knowledge of the Highway Code.

3.1.16 Formally adopting the Safety Awareness Course would bring us in line with other enforcement agencies who already offer an additional option to prosecution.

3.1.17 If adopted, this course of action would reduce officer time spent in preparing files for court, with the added incentive of increasing revenue into the department.

3.1.18 Having completed the course and accepting a caution, any other breach of conditions, resulting in a caution within a 12 month period of having attended the course, may result in an appearance before the Licensing Committee. The 'flagging' offence would be introduced to show previous bad character.

3.1.19 A second offence of 'flagging' would result in an immediate report for prosecution and the evidence of previous caution would be produced as evidence at the proceedings.

3.1.20 The Pilot scheme has produced good results so far and those drivers attending the course have given good feedback with regard to its value.

3.1.21 The drivers invited to attend the course were those drivers currently being considered for prosecution to assess whether they were prepared to undergo additional training as an alternative to a court appearance.

3.1.22 All of those drivers took advantage of the invitation.

4.1 Choices (Options)

4.1.1. Confirm the formal adoption of the procedure outlined.

4.1.2 Recommend an alternative system of enforcement.

4.1.3 Reject the proposal and retain the system of prosecution for all 'flagging' offences.

5. Implications (including financial implications)

5.1 Policy (Private Hire Licensing)

Any changes would be incorporated within the current policy.

5.2 Resources and Risk

5.2.1 Resources will continue to be managed within the licensing budget.

5.2.2 Operation Flag is a joint operation involving the police and NBC, decisions on action to be taken following the detection of offences lies with NBC.

Points to be considered are:

- whether this would be a strong enough deterrent to prevent drivers re-offending.
- Whether it is good use of officer time. (A decision would need to be made as to whether it is run as a day or a half day course).
- Ensure, should they decline the offer, that drivers are inside the six month prosecution deadline. Those refusing the offer would be prosecuted.

5.3 Legal

5.3.1 The Local Government (Miscellaneous Provisions) Act 1976, allows the Local Authority to impose sanctions in respect of drivers licences for both Hackney carriages and Private Hire Vehicles, drivers and operators.

5.3.2 All enforcement activities, including investigations and formal actions, will always be conducted in compliance with the Council's statutory obligations.

5.3.3 Human Rights Act 1998.

Article 1 of the first protocol stipulates:

Protection of property

Every natural and legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law.

The preceding provision shall not, however, in any way impair the right of the state to enforce such laws as it deemed necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Committee members ought to be aware that a person's Hackney driver's licence is a possession under article 1 of the first protocol.

Any decision to interfere with the enjoyment must be proportionate to the issues, which is fulfilling a legitimate aim.

5.4 Equality

5.4.1 An equality impact assessment has been undertaken there are no equality issues as all drivers will be offered the same opportunity to avoid prosecution.

5.4.2 By endorsing a formal process it will ensure that all licence holders are treated fairly.

5.4.3 In line with the Council's published equalities policy, we will use positive action in how we provide services

5.5 Consultees (Internal and External)

5.5.1. Legal

5.6. Background Papers

5.6.1. Local Government (Miscellaneous Provisions) Act 1976. (Relating to Hackney and Private Hire vehicles and drivers).

5.6.2. Taxis-Licensing Law and Practice – James Button.

Report Author: Philip Bayliss
Senior Licensing Officer
Ext 7099