

**COUNCIL REPORT**

**16<sup>th</sup> September 2015**

**APPROVAL OF TAXI FEE STRUCTURE AND ASSOCIATED PROCESSES.**

**Kevin Parkes**

**Executive Director Economic Development and Communities**

**PURPOSE OF THE REPORT**

1. In December 2014 a Local Government Ombudsman complaint investigation concluded that the Council was unable to provide the historical calculations upon which its taxi licensing fees had subsequently been based. In response, the Authority agreed to review its fee structure. The fees have now been recalculated on the required cost-recovery basis and legal process dictates that they are considered and endorsed by the Council prior to being subject to consultation.

**BACKGROUND**

2. The Local Government (Miscellaneous Provisions) Act 1976 provides that a District Council may charge for licensing vehicles and drivers engaged in the Private Hire or Hackney Carriage trade. Fees may also be charged for the licensing of Private Hire Operators. The legislation specifies which elements of the entire service can be taken into account when calculating the respective licence fees.
3. Since April 1998 it has been Middlesbrough Council's policy to ensure that the Taxi Licensing function is self-funding. It therefore operates within a ring-fenced budget, enabling any deficit or surplus to be carried forward. Surplus has been used at times to pay for relevant legal proceedings with any remainder gradually accruing on an annual basis. However, the recent increase in licensed drivers and vehicles combined with a reduction in licensing staff and the adoption of amended working practices has resulted in a 2014/15 surplus of £185k (rising from £62k the previous year).
4. In 2014 a complaint was made to the Local Government Ombudsman stating that the Council could not illustrate how it calculated its various taxi licensing fees as it no longer held the data on which they were initially based. Supporting this claim, the Ombudsman found that the Council did not hold data on its original calculations and therefore could not justify with any certainty, the fees it charged.

5. Flowing from the Ombudsman's decision dated 5<sup>th</sup> December 2014 it was agreed that the Council would review its fees, consult with the trade on its proposals and confirm what it would do with the surplus in the account. With initial preparations immediately underway, the Authority's intentions were made known in a letter to the complainant dated 12<sup>th</sup> December 2014.
6. The fee review provided an opportunity to formulate as transparent and accurate a charging structure as possible. Given the considerable resource implications of carrying this out from first principles however, it was decided to identify and adopt a suitable model from elsewhere. Nationwide enquiries produced little evidence of such traceable charging structures, however following a similar challenge to the existing fees structure, it was learnt that a comprehensive recalculation process had been carried out on North Tyneside. Capita Local Government, which is responsible for the North Tyneside service, was therefore contacted, and following discussion, engaged to assist in Middlesbrough's review process.
7. The Capita model identifies the frequency, duration and staff involved in all tasks, incorporates the costs of relevant ancillary services and apportions the charge for each element to the appropriate licence fee (see Appendix A).

## **PROPOSALS**

8. The proposed fees resulting from this analysis and those currently charged by the Authority are attached as Appendix B. In summary, under the proposed system vehicle licences reduce by an average of approximately £230 (45%) and £175 (37%) for new applications and renewals respectively whilst drivers' fees rise by £149 (271%) for new applicants and £57 (104%) for renewals. Although the new figures represent a considerable realignment of costs between vehicle and driver, the process proves this to be an accurate reflection of time devoted to, and functions associated with, each section of the trade. The disproportionately lower fees which have historically been applied to drivers' licences have been justified in previous fees reports to the Licensing Committee. These reports identified a feeling amongst proprietors and operators that the cumulative costs placed on drivers (medical examinations, knowledge test etc.) imposed a considerable financial burden on individuals who may be of limited means. As a result, and with no element of dissent, a degree of cross-subsidy was deliberately built into the system. During the current recalculation exercise however, it has become apparent that such a practice is counter to the principles of cost recovery and therefore not permissible.
9. With regard to the current budgetary surplus, legal and financial advice recommends that it would be prudent and justifiable to retain a surplus equivalent to 10% of the current budget for operational eventualities. This would equate to £48k, which would continue to be ring-fenced within the Taxi Licensing budget. As far as the remaining £137k is concerned, it is proposed that the Authority reduce the newly calculated vehicle fees by a defined amount, this reduction being applied to new applications and renewals until the sum is depleted. Clearly, the rate at which this depletion occurs will be dependent upon the level of applications and renewals received. If however it is assumed that these numbers will either stabilise or continue to increase, a reduction of £50 per licence would ensure that the surplus is consumed before the next planned fee review in three years' time.

10. As previously stated, the Ombudsman agreement requires that trade consultation be undertaken on the entire fees structure. A procedure for the variation of vehicle and operator fees already exists in Local Government (Miscellaneous Provisions) Act 1976; therefore it is proposed to extend its application to driver fees too. The procedure states that if, after the first period of consultation (minimum 28 days) no objections are voiced or remain, the fees immediately come into force. For this to occur, the fees must have been formally set before the consultation process commences.
11. Once set, a statutory public notice is placed in the newspaper notifying that the fees are subject to consultation for a *minimum* of 28 days. If objections are not withdrawn by the point of expiry, a further date, *no later* than two months after the first specified date is set, on which, following further Council deliberation, the variation comes into force with or without modification.
12. In the interests of transparency, and with regard to the comparative complexity of the fees calculation, it is proposed to double the initial minimum 28 day consultation period to 56 days, allowing additional time for the trade to consider, seek clarification and make comment. If on the expiration of the 56 day period there are no extant objections, the fee structure will come into force and apply to all licences effective from December 2015 onwards.
13. Were objections to remain, a further period would be allotted for their consideration by full Council with a view to implementing the fees, with or without modification, by 1 January 2016.
14. At present all taxi-related licences are granted on an annual basis. However, from October 2015 the Deregulation Act requires councils to offer the option of 3 year driver licences and 5 year private hire operator licences. The analytical work already undertaken to establish the new annual licences has also enabled the licensing section to calculate the new 3 and 5 year fees on a cost-recovery basis.
15. The implementation of this legislative change coincides with the fee consultation period. In order to minimise confusion and bureaucracy therefore, operators and drivers have been informed that the Council will simply continue to offer one year licences at the current rate to all new applicants and those renewing between 1 October 2015 and the date on which the new fee structure comes into operation. At that point, any licensee that has been provided with a one year licence between those dates will have the option of converting it to the 3 or 5 year alternative. The sum already paid for their one year licence will be offset against the cost of the multi-year alternative ensuring that no financial or commercial detriment is suffered.

## **IMPACT ASSESSMENT**

16. A level 1 Impact Assessment has been undertaken, concluding that no relevant negative impact will result from the adoption of the measure proposed.

## **OPTION APPRAISAL**

17. Assuming the calculations that the previous fees were built upon had been located, retaining the current fee structure would not have been a viable option. Staff reductions, amended working practices and the increased number of licences granted have combined to produce a disproportionate rise in the ring-fenced budget surplus recorded at the end of 2014/2015. This in itself illustrates that a realignment of fees is required.
18. Amending fees without careful consideration of the various cost elements would not have provided the transparency necessary to justify the subsequent charges.
19. Undertaking the analytical work required to produce the new structure without an established template and the assistance of an organisation that had already completed the process would have proved more costly and been an inefficient use of staff time and associated resources.

## **FINANCIAL CONSIDERATIONS**

20. It is a legal requirement that all fees received for taxi licensing purposes are ring-fenced to that function and are set on no more than a cost recovery basis. The proposed fees (subject to consultation) provide assurance in this regard.
21. The calculation process takes into account new working practices, reduced staffing and current workloads. Clearly, any subsequent variation of these factors will affect the budget's balance. It is therefore proposed to review the fees calculation process - in line with Capita's recommendation - on a three yearly basis (unless circumstances demand that the process is brought forward). This does not affect the application of simple inflationary/deflationary rises or reductions which will remain subject to annual review.

## **RECOMMENDATIONS**

22. It is recommended that the Council -
  - a) Approves the proposed taxi licensing fee structure, subject to the consideration of any objections raised during the up-coming consultation period.
  - b) Approves plans for the Council to retain £48k of the £187k 2014/15 taxi licensing surplus within the taxi licensing budget; this sum being equivalent to 10% of the 2014/15 taxi licensing budget. The remaining £137k surplus would be used to reduce the newly calculated vehicle licence fees by £50 per application/renewal until such a time as the surplus is depleted.
  - c) Approves the proposal to have an extended initial consultation period doubled from the legal minimum of 28 days to 56 days.
  - d) Approves the proposal to review the fees calculation process on a three yearly basis, unless particular circumstances demand that it should be carried out earlier.

## **REASONS**

23. The recommendations provide for a transparent fee structure that reflects the time devoted to and the functions associated with each area of the trade on an accurate basis.
24. The distribution of the surplus involves the retention of a proportion which, from both a legal and financial perspective represents a prudent amount for operational eventualities. The majority of the surplus will then be distributed to vehicle licensees.
25. The doubling of the minimum consultation period acknowledges the comprehensive nature of the fee changes and provides additional time for the trade to consider, seek clarification and comment upon the new taxi licensing fees.

## **BACKGROUND PAPERS**

**The following background papers were used in the preparation of this report:**

Task and timing analyses required to produce the data attached as Appendix A.

### **AUTHOR:**

John Wells  
(01642) 728221

