

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO LICENSING COMMITTEE

29 SEPTEMBER 2015

REPORT OF THE ASSISTANT CHIEF EXECUTIVE LEGAL AND REGULATORY SERVICES

DEREGULATION ACT 2015 PRIVATE HIRE VEHICLE OPERATOR FEES

1. Purpose of Report.

1. The purpose of this Report is to recommend new licence fees for private hire operators to reflect a change to the duration of a licence being brought into effect by the Deregulation Act 2015.

2. Connection to Corporate Improvement Objectives/Other Corporate Priorities

- 2.1 The duties of the Council as a licensing authority are statutory in nature but many of the licensing objectives support the principal aims of the Corporate Improvement Plan and the Council's corporate priorities.

3. Background.

- 3.1 The Deregulation Act 2015 amends the section of the Local Government (Miscellaneous Provisions) Act 1976 that sets out the duration of licences for operators of private hire vehicles.
- 3.2 The present practice in Bridgend County Borough is to grant these licences for a period of one year only.
- 3.3 The amendments made by the Deregulation Act establish a standard duration for a private hire operator's licence of 5 years. A licence may be granted for a shorter period where there is a justifiable reason. This reason would be related to the circumstances of an individual case. The commencement date for these measures is 1st October 2015.
- 3.4 Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Council to charge fees in respect of private hire operators' licences. The Council must set the fees for these licences on the basis that it only recovers costs which it is entitled statutorily to recover.
- 3.5 The Act, states that the fee for operators' licences shall not exceed £25 or such other sum as the Council may from time to time determine but was

originally set in 1976 and should therefore reflect the current costs.

- 3.6 Case law has established that when the Council makes a surplus in respect of licence fees it should give account for that the next time that the fees are set; and if it incurs a deficit it may also take that into account. The calculations in respect of each type of licence issued by the Council should be kept separate.
- 3.7 When the Council proposes to set new fees for operators' licences it is required by Section 70 of the 1976 Act to publish notice of the proposed variation in a local newspaper stating that objections may be made within a period of not less than 28 days. If objections are received and not withdrawn the Council must consider them and set a further date on which the variation shall come into force with or without modifications

4. Current situation / proposal.

- 4.1 Although the legislation states that an operator's licence should be granted for 5 years there may be circumstances in which it may be appropriate to grant a licence for a shorter period. Whilst each case will be dealt with on its merits, proposed fees for both a 1 year licence and 5 year licence have been calculated for approval.
- 4.2 Fees have been calculated using a software toolkit developed by the Wales Licensing Expert Panel.
- 4.3 The total general expenditure applicable to the service (central recharges and direct costs) in 2014/2015 (£69,713) is divided amongst each member of staff (7 in total) to give an hourly rate as follows:
- Licensing Officer £41.08
Senior Licensing Assistant £35.29
Licensing Assistant £27.03
Licensing Enforcement Officer £32.98
- 4.4 Officer time spent on administrative tasks relating to this licence type have also been assessed and applied to the licence fee. These include telephone enquiries, banking and receipting, and general administration costs which are apportioned across relevant applications received during the period (26).
- 4.5 The process steps involved in the grant and renewal of a private hire operator licence have also been assessed together with the cost of an annual officer visit.
- 4.6 A breakdown of the costs of administration and other charges is as follows:

Cost of 1 year licence grant	£
Administrative cost of grant & issue of licence	85.57
Total other charges	29.69
Total Grant Fee 1 year operator licence	115.26

Cost of 1 year licence renewal	£
Administrative cost of grant & issue of licence	67.65
Total other charges	29.69
Total Renewal Fee 1 year operator licence	97.34

Cost of 5 year licence grant	£
Administrative cost of grant & issue of licence	283.47
Total other charges	89.07
Total Grant Fee 5 year operator licence	372.54

Cost of 5 year licence renewal	£
Administrative cost of grant & issue of licence	259.18
Total other charges	89.07
Total Renewal Fee 5 year operator licence	348.25

4.7 The table below shows the existing fees compared with the proposed new fees rounded to the nearest pound to assist fee collection:

	Existing Fee	Proposed 1 Year Fee	Proposed 5 Year fee
PH Operator Grant	£174	£115	£373
PH Operator Renewal	£174	£97	£348

As outlined in a previous report to Committee, the licensing budget overall has shown a deficit of income and Members were advised that work was underway to pinpoint the origin of the deficit for future fee setting. However, the implementation of the Deregulation Act 2015 requires fee setting to be brought forward on two specific licence types, private hire operators and taxi driver, but this deficit has not been included in the fee setting process for these licences.

The methodology of calculating fees is considered a robust method of meeting the guidance issued by the Local Government Association in respect of calculating locally set fees. The methodology has been applied to central support costs and data collected in 2014/2015. Fee setting processes have developed from recent case law together with guidance on elements that may be included in the calculations. Fee variations are therefore likely to occur year on year as a result of incorporating the guidelines as well as variations in central recharges and direct costs. However, as set out in the LGA guidance, to ensure that fees remain reasonable, it is necessary to establish a regular and robust review process to allow fine tuning of fees. As this is the first year

of using the toolkit process, should a surplus or deficit accrue as part of the final outturn position for 2015/16, this will be taken into account when setting the fees in the next financial year.

- 4.8 It will also be necessary to amend the standard condition of licence which currently states:

The Licence shall be for a period of one year and is not transferable.

To:

This licence shall have effect for a maximum of five years and is not transferable.

5. Effect upon Policy Framework & Procedure Rules.

- 5.1 The Committee's powers to set fees are outlined within the Council's Constitution.

6. Equality Impact Assessment

A high level equality impact assessment (EIA) was undertaken on the Council's budget proposals and updated MTFs and reported to Council on 25 February 2015. In line with the Equalities Scheme we will consider the outcome of the consultation on this issue and consider any adverse impacts that may develop.

7. Financial Implications.

- 7.1 On 19 March 2015 the Licensing Committee resolved that there should be no increase in licence fees for 2015/16 pending an annual review of fees. However, it is necessary to set fees for Private Hire Operator licences as a result of the implementation of the Deregulation Act 2015. Should a surplus or deficit accrue as part of the final outturn position for 2015/16, this will be taken into account when setting the fees in the next financial year.

8. Recommendation.

- 8.1 That the Committee approves the proposed licence fees outlined in this Report with an implementation date of 1st October 2015.
- 8.2 That the Committee authorise the Licensing Officer to carry out the necessary public notice consultation procedure on behalf of the Assistant Chief Executive Legal and Regulatory Services.
- 8.3 If objections are received within 28 days of the publication of the notice of the proposed changes to the fees, the matter must come back before the next appropriate Committee meeting so that any such objections can be

considered, modifications be considered, and a new date for the introduction of the variations can be set.

- 8.4 That the relevant condition of licence relating to duration is amended as outlined in paragraph 4.8 above.

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23 September 2015

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Background documents:

Open for Business Local Government Association Guidance on locally set fees