

North Yorkshire County Council

Executive Member for Open to Business and Section 151 Officer
19 January 2023

Harmonisation of Hackney Carriage and Private Hire Licensing Fees

Report of the Corporate Director – Karl Battersby

1.0 Purpose of Report

- 1.1 To adopt a harmonised fee structure for Hackney Carriage and Private Hire licensing across North Yorkshire from 1 April 2023.

2.0 Background

- 2.1 Sections 53 and 70 and of the Local Government (Miscellaneous Provisions) Act 1976 (The Act) set out the means for the local authority to recover fees for Hackney Carriage and Private Hire driver, vehicle and operator licensing. This is the fees that drivers and operators are charged for their licences from the Council (not the fares that they charge customers for journeys – that is subject of another report).
- 2.2 At their meeting on 8 November 2022 the Executive delegated decision making on taxi licence fees to the Executive Member for Open to Business and the Section 151 Officer.
- 2.3 The legal principles that apply to setting of fees for the Hackney Carriage and Private Hire licensing regime are set out in Appendix 1.
- 2.4 The administration of the Hackney Carriage and Private Hire licensing regime currently sits with the North Yorkshire district authorities. All seven district authorities have set their own individual fees for 2022/23. They are all different. A table of the existing fees charged in the district council areas is provided at Appendix 2. This includes a comparison with existing fees.
- 2.5 On 1 April 2023 North Yorkshire Council will be the sole licensing authority. It is therefore important that one set of harmonised fees be established.
- 2.6 Officers and Legal Services established early in the Local Government Reorganisation ('LGR') process, that there was a significant risk to the Council if a single Hackney Carriage and Private Hire licensing policy was not in place by day 1 of the new Council, and had not adopted Part II of the Local Government (Miscellaneous Provisions) Act 1976. The risk in relation to licence fees is that, without one harmonised fee for North Yorkshire, operators will legitimately be able to apply using the lowest fee available. This would then become the new fee by default and not by calculation.
- 2.7 On the 7 February 2023, a report is due before the North Yorkshire Council Executive, seeking approval to adopt a Hackney Carriage and Private Hire taxi licensing policy that is intended to cover the whole of the North Yorkshire, following public consultation. Additionally, the report will recommend that the Executive adopt part 2 of the Local Government (Miscellaneous Provisions) Act 1976 (other than section 45). If the Act is adopted, it will automatically create one 'controlled district' to reflect the administrative area of North Yorkshire Council from the 1 April 2023.
- 2.8 Also on the 24 January 2023, a report is due before the North Yorkshire County Council Executive, seeking approval to consult on a harmonised maximum rate of fares within the

North Yorkshire district in connection with the hire of a hackney carriage vehicle. This is the maximum fare that a driver can charge a customer.

- 2.9 This report seeks the approval of proposed harmonised licence fees for North Yorkshire Council for 2023/24 for the purposes of consultation and statutory advertising requirements. If approved, a further report will be brought with a recommendation to implement the final proposed new fees and charges, subject to any amendments following consultation.
- 2.10 If approved, the proposed fees will be subject to consultation with the licensed trade. Section 70 of the Act sets out statutory advertising requirements in relation to vehicle and operator licences which require that an advert must be published within a local newspaper and at least 28 days provided for comments to be made. A draft public notice is attached at Appendix 3 for information.
- 2.11 Following the statutory consultation process, if any objections are received, a further report will be presented setting out the results of the consultation and any suggested amendments to be made to the proposed fees as a result.
- 2.12 If approved, the final proposed fees will take effect across the whole North Yorkshire Council area from 1 April 2023. The Governance reporting timetable is detailed in the table below:

Present fees report to LGR Licensing Member Working Group	19/12/22
Present Fees report to NYCC Executive Member for Open to Business and Section 151 Officer for agreement to consult	19/1/23
Consultation	23/1/23-20/2/23
Present outcome of consultation to Regulatory Services Leadership Group	21/2/23
Present outcome of consultation to NYCC Executive Member for Open to Business and Section 151 Officer or NYCC Executive for any amendments and to agreement to Go Live	1/3/23
Go Live	1/4/23

- 2.13 In the case of R (Cummings) v. Cardiff [2014] EWHC 2544 (see Appendix 1), the High Court ordered that a local authority must keep separate accounts for the different types of licence set out in sections 53 and 70 of The Act. This is to ensure that surpluses from one type of licence are not used to subsidise a deficit in another. It will not be possible to meaningfully consider this at this point. The traditional districts will not close their accounts until after 1 April 2023. This should be taken into account at the next annual review and fees adjusted accordingly. At this point it is only possible to set such a fee as is considered reasonable with a view to recovering the costs.
- 2.14 In order to review and establish the current costs of administering licences in the seven district authorities a nationally recognised tool has been used which was first established by the Welsh licensing authorities. The tool is essentially an Excel spreadsheet which takes into account individual officer hourly rates, on-costs and the time spent on each element of a licence by the local authority. This then produces an overall cost associated with each type of licence.
- 2.15 Using this data and data on expected volumes, a weighted average cost has been calculated for each type of licence in order to estimate the licence fee. These were then reviewed to ensure a logical fee structure which reflects the costs of administration for the proposed new licence fee for North Yorkshire Council. These fees are expected to be budget neutral at current expected licence volumes. The proposed new Hackney Carriage and Private Hire licensing fees for North Yorkshire Council for 2023/24 are set out in

Appendix 4. A 6% uplift has been incorporated to take account of the current increases in staffing and on-costs.

3.0 Licensing Member Working Group

3.1 The Licensing Member Working Group is one of seven such groups established by the Executive at its meeting on 21st June 2022.

3.2 The Working Groups were set up to engage with Members on the necessary decision-making processes that are required prior to vesting day for the new North Yorkshire Council – 1st April 2023.

3.3 The Working Groups were also established as cross-party Task and Finish bodies to consider, review, and make recommendations to the decision taking body on areas within their remit. The Licensing Member Working Group is chaired by Councillor Derek Bastiman and comprises of Members with significant licensing experience, supported by Officers from across North Yorkshire.

3.4 The Working Group resolved to recommend that the Executive approve the recommendations as shown in section 13.0 below.

4.0 Other options

4.1 The Council could choose to leave licence fees as they are in the traditional seven district authority areas. This is not recommended for the reasons detailed in paragraph 3.6.

5.0 Financial Implications

5.1 In 2011 the District Auditor reported that Councils should be able to demonstrate how it had set an appropriate fee sufficient to cover its costs, in accordance with the legislation. To do this they should be able to show:

Its estimated costs of issue and administration of drivers' licences.

How it has estimated its reasonable costs in respect of:

- vehicle and operators' licences;
- inspections of vehicles;
- the provision of hackney carriage stands;
- the administration and other costs relating to vehicle and operators' licences and;
- control and supervision of vehicle licences.

6.0 Legal Implications

6.1 Sections 53 and 70 of the Act allow for the recovery of a reasonable fee for the grant of a driver, operator and vehicle licence. The fees must be set at a level which ensures that the Council does not make a profit and any deficit or surplus should be taken into consideration in subsequent fee reviews, to be recovered or refunded over a rolling three year cycle. Appendix 1 details the legal principles that should be adhered to when setting licence fees.

7.0 Consultation Undertaken and Responses

7.1 Detailed in this report.

8.0 Risk Management Implications

8.1 To set the fees too high risks the Council being challenged in the Courts by those licensed, while to set the fees too low would mean that the Council tax payer is subsidising local businesses. The details in this report seek to make the process as transparent as possible. The proposed fees aim to integrate seven legacy districts to form one balanced for North Yorkshire in 2023/24. There is a risk that a balanced budget won't be achieved but the process which has been used to calculate the proposed fees is designed to minimise this risk as far as is possible with the information available at this stage. Budgets will be constantly monitored and kept under review and any necessary adjustments made in future years.

9.0 Equalities Implications

9.1 Lack of investment in standard and accessible Hackney Carriage and Private Hire vehicles impacts on the elderly and people with disabilities. These people may rely on licensed vehicles and find their availability limited should there be too few that are adapted to meet the needs of those with disabilities and wheelchair users in particular. Licence fees should be set at a level which does not discourage people from investing in good quality vehicles. However, licence fees are used to fund monitoring and supervision of vehicles which helps protect those with protected characteristics. See appendix 5 for the Equalities Impact Assessment.

9.2 Fees should be set at an appropriate level and in compliance with the law. The proposed fees are set on a cost recovery basis and are not at a level that would discourage the trade investing in quality standard and accessible vehicles.

10.0 Environmental Impacts/Benefits

10.1 There are no impacts or benefits.

11.0 Community Safety Implications

11.1 Protecting and safeguarding vulnerable people – The licensed trade provide an important service in transporting members of the public, some of which are vulnerable due to their age or for other reasons. Taxi licence fees should be set at a level which ensures that all necessary checks and testing can be carried out to ensure that new applicants are “fit and proper” to hold a licence and for compliance checks and appropriate enforcement measures to be undertaken with existing licence holders where required.

12.0 Reasons for Recommendations

12.1 If licence fees are not harmonised for North Yorkshire, operators will legitimately be able to apply using the lowest fee available. This would then become the new fee by default and not by calculation. This may not recover the reasonable costs of administering the service.

13.0 Recommendation

13.1 That the North Yorkshire County Council Executive Member for Open to Business and Section 151 Officer approve that the Corporate Director, Karl Battersby, consults and advertises the proposed taxi licence fees as detailed in para's 2.9 to 2.12 and in appendix 4.

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Background Documents: All included within the report.

Appendices:

Appendix 1 – Legal principles that apply to fees for the Hackney Carriage and Private Hire licensing regime.

Appendix 2 – Existing district local authority fees.

Appendix 3 – Proposed format of the public notice

Appendix 4 - Proposed Hackney Carriage and Private Hire licensing fees for North Yorkshire Council

Appendix 5 – Equalities Impact Assessment