

**Harmonisation of Hackney Carriage and Private Hire Licensing Fees - The legal principles that apply to fees for the Hackney Carriage and Private Hire licensing regime.**

**Fees for driver's licences**

Section 53 of the Local Government (Miscellaneous Provisions) Act 1976 sets out the parameters:

“...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.”

This limits the cost of a driver's licence to the council's administration costs associated with the “...the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle...”.

Until recently, the costs of enforcement could not be included in the calculation of fees for driver licences. The judgment in the Court of Appeal case of R (app Rehman) v Wakefield City Council [2020] R.T.R. 11 (2019), however, determined that “administration” can include the cost of enforcement or compliance against licensed drivers.

**Fees for vehicle and operators' licences**

Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 sets out the parameters:

“...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.”

The licensing costs recoverable in respect of vehicles and operators is limited to vehicle inspection costs for the specific purpose of determining their suitability to be licensed, reasonable cost of providing hackney carriage stands, reasonable administration costs for processing the licence application and reasonable costs

associated with "...control and supervision of hackney carriages and private hire vehicles."

Enforcement costs are therefore recoverable in these fees.

### **General principles**

Fees cannot be used for revenue generation. They can only be used in the delivery of the Hackney Carriage and Private Hire licensing regime. A series of court cases, starting with *Manchester City Council [R] v King [QBD] 1991*, has also established the principle that a district council must consider any previous surplus and, if they so choose, deficit and adjust the level of fees accordingly.

Cross subsidisation is not permitted. Charging higher fees to one group (i.e. driver's licences) to subsidise lower prices for another group (i.e. vehicles licences) is not allowed. Nor can fees be used to subsidise other licensing regimes such as animal licensing or scrap metal licensing.

In the case of *R (Cummings) v. Cardiff [2014] EWHC 2544*, the High Court made the following Order:

"A local authority must keep separate accounts for and ensure when determining hackney carriage and private hire licence fees under sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 that any surplus and deficit accrued under each of the determining hackney carriage and private hire licensing regimes, and between each licence within those regimes, are only accounted for and taken into account within the regime under which they have accrued and a surplus from one licensing regime shall not be used to subsidise a deficit in another."

Three separate accounts must be established for drivers, Hackney Carriage vehicles and Private Hire Vehicles and Operators.

### **Risks**

Decisions can be subject to legal challenge. This can be by judicial review or a complaint to the local auditor.