

## CITY OF PLYMOUTH

**Subject:** Hackney Carriage and Private Hire Fees for 2011-2012

**Committee:** Licensing Committee (Hackney Carriage)

**Date:** 2 September 2011

**Cabinet Member:** Councillor Jordan

**CMT Member:** Director for Community Services

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**Ref:** PPS/AN

**Part:** 1

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### Executive Summary:

Plymouth City Council regulates the Hackney Carriage and Private Hire industry through the licensing framework set out in the Plymouth City Council Act 1975. Fees for licences should be set at a figure which will recover the full cost of the licensing administration including enforcement. The budgets are operated as two trading accounts, one for Private Hire and the other for Hackney Carriage.

A review of the current fees has been undertaken to balance the two trading accounts. A new fees structure has been constructed following consultation and legal advice. The recommended fees structure has been designed to achieve: -

- A more accurate reflection, in the fee, of the true cost of the administration of different licence types.
  - Bringing the accounts into balance by 2013/14
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### Corporate Plan 2011-2014:

This report links to the delivery of the corporate improvement priorities, in particular:

- Delivering sustainable growth – The trades employ a significant number of people and support local businesses through their activity. Hackney carriages and private hire form part of the successful public transport system and visitor experience.
  - Providing more and better culture and leisure activities – Visitors views of the City may be influenced by a well presented vehicle or driver. These vehicles form an essential part of the public transport system.
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### Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

The Hackney Carriage and Private Hire accounts have been subject to periods of both excessive surplus and deficit over the last 10 years. This fee report is the third in a series of reviews designed to ensure that both accounts come into an acceptable level of balance by 2013/14.

The fee levels in this report have been set to continue in achieving this aim. Future annual reviews will ensure that any changes in projected income or expenditure are identified and appropriate action taken to adjust fee levels.

Both accounts are separate trading accounts and should have no effect on general fund accounts.

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**Other Implications: e.g. Section 17 of the Crime Disorder Act 1998, Community Safety, Health and Safety, Risk Management and Equality, Diversity and Community Cohesion:**

Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Lower income groups are a significant user of the hackney carriage and private hire trade. Increases in fee levels have an influence on fare levels. Fee levels should be reasonable so as not to adversely affect fares charged.

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**Recommendations & Reasons for recommended action:**

The Committee resolve to:

Agree for the new fee structure as set out in the Fees Table (Appendix I) to be advertised in accordance with statutory requirements.

**Reason**

The Hackney Carriage taxi reserve account is in deficit by £129,099. The Private Hire taxi reserve account is in surplus by £186,944. Balancing the accounts by 2013/14 enables the Hackney Carriage trade to absorb the costs of the fees increase over a medium term period whilst addressing the deficit. A shorter period would produce much larger initial fee increase. Increasing the period would reduce the initial fee increases but would extend the period that the account deficit had to be supported by the council.

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**Alternative options considered and reasons for recommended action:**

Consideration was given to a single increase in fees. This was rejected as the single step increase would have produced a larger increase in fee for the trade to absorb in one year. Consideration was given to a recommendation that the accounts be brought into balance over a longer period. This was rejected because the council would not continue to support the deficit over a longer period.

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**Background papers:**

None.

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**Sign off:**

Head of Fin	CoSF ED1112 002	Head of Leg	<b>AG/12203/ 6.7.2011</b>	Head of HR	Head of AM	Head of IT	Head of Strat. Procur.
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Originating CMF Member
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## **1.0 Background Information**

Plymouth City Council regulates the Hackney Carriage and Private Hire industry through the licensing framework set out in the Plymouth City Council Act 1975. Fees for licences should be set at a figure that will recover the cost of the licensing administration including enforcement. The budgets for taxi licensing are operated as two trading accounts, one for Private Hire and the other for Hackney Carriage.

- 1.1 A major review of the fee structure and levels was undertaken over 2007 and 2008, which resulted in a new fees structure which came into effect on the 3<sup>rd</sup> January 2009. It was proposed that an annual fee review be undertaken to ensure that the accounts came into balance by 2013/14.

An annual review during 2010 led to the current fees coming into effect in August 2010.

- 1.2 In preparation for this fee annual review meetings have been held with the Plymouth Licence Taxi Association (PLTA). It is hoped that any major objections have been resolved. All private hire operators were written to in order to notify them of the proposal for no change in private hire fees.

Appendix I contains the current fees and proposed fees levels for 2011/12.

## **2.0 Legal Framework**

### **2.1 Drivers Licences**

The Council may make a charge for the grant of the licences for drivers of Hackney Carriages and Private Hire vehicles by virtue of Section 11(2) of the Plymouth City Council Act 1975. The fees must be considered reasonable with a view to recovering the costs of issue and administration (including enforcement) of the licence.

### **2.2 Vehicle Licences**

The Council may make a charge for the issue of a vehicle licence for a Hackney Carriage or a Private Hire vehicle by virtue of sections 5A and 28 of the Plymouth City Council Act 1975.

These fees can include the: -

- Reasonable costs of inspection of vehicles
- Reasonable cost of providing ranks for Hackney Carriage vehicles, and;
- Any reasonable or other costs connected with the administration and enforcement of Hackney Carriage and Private Hire vehicle licensing.

### **2.3 Operators Licences**

The Council may make a charge for the issue of Private Hire Operators licences by virtue of section 28 of the Plymouth City Council Act 1975. The Operators fee should relate to the costs for grant, renewal and of administering the licensing scheme and should be reasonable.

- 2.4 It is considered that all reasonably incurred legal expenses and professional charges incurred in taking or defending proceedings which are directly related to the control, supervision, administration and / or enforcement of all parts of the Hackney Carriage and Private Hire trade should be charged to the relevant part of the taxi reserve accounts.

## **3.0 Process to increase fees**

- 3.1 To be able to vary the fee structure there is a statutory process required under s.28 Plymouth City Council Act 1975 which is as follows:

1. An advertisement will need to be placed in the Evening Herald giving a minimum of 14 days from publication for objections to be received.
2. If no objections are received within that time limit then the date the fee increase comes into effect is the date specified in the notice as being the end of the period for objections (which would also be the case if any objections are received but withdrawn before the end of that period)
3. Any objections received will be fed back to this Committee for consideration once the consultation period has elapsed.
4. At this time Members will be required to consider the objections and decide whether to amend the increase in fees in line with objections or to continue with the increase as proposed.
5. The earliest any increase could be effective, if there were no objections, would be 14 days after the date the advertisement appeared in the press.
6. The latest any increase could become effective would be 2 months after the initial advertisement is placed.

#### **4.0 Allocation of expenses and income**

- 4.1 In setting its fees the authority should seek to recover the total cost of the administration of that licence or process. The fees for the five licence types, Hackney Carriage driver and vehicle, Private Hire driver, vehicle and operator, will be set at a level to recover the costs of all control, supervision, administration and/or enforcement associated with the licence type.
- 4.2 Where specific expenditure can be associated with a particular trade the amount is allocated to that trade budget, e.g. postage costs, vehicles plate costs etc. Where generic expenditure is incurred, including reasonable central support service recharges, this is allocated on a 35% (Hackney Carriage) and 65% (Private Hire) basis. An example would be printer consumables and salaries.
- 4.3 The basis for this split was agreed in the December 2008 Committee meeting and is still an accurate reflection based on;

##### Split of licences

Hackney Carriage Vehicles 367 (31%) Private Hire Vehicles 810 (69%)

Hackney Carriage Drivers 467 (36%) Private Hire Drivers 836(64%)

##### Licence Administration

A total of 3416 applications were received for new licences or for the renewal, transfer, cancellation or surrender of existing licences. Of these 31% were related to the hackney carriage trade and 69% to the private hire trade.

##### Level of enforcement activity

Total vehicle checks undertaken were 526, with 26% being hackney carriage and 74% private hire

These checks revealed 329 vehicles with one or more non conformities with the vehicle specification, with 32% being hackney carriage and 68% private hire

A total of 86 Committee Reports were presented in 2010/11 involving drivers, vehicles or operators of these 36% were Hackney carriage and 64% were Private Hire.

Hackney carriage licensing does however have unique requirements which add costs;

- The current process of limiting the number of Hackney Carriage vehicle licences

- Rank reviews and maintenance
- Taxi tariff reviews

3.4 It is felt that the current allocation of 35% hackney carriage and 65% private hire is still valid, but will be reviewed as part of each fee review.

3.5 The factors that determine fee levels are: -

- the principal of full cost recovery,
- fees should be set at a rate to cover the cost of administering that specific licence type.
- fees should not cross subsidise other licence types.
- the number of licences of the different types.
- basing operator's annual fees on a cost per driver.
- the cost of administration, including enforcement, associated with the licence types.
- level of reserves.

### **Fees Structure Changes for 2011/12**

#### **4.0 Fee Increases**

4.1 A major issue in previous fee reviews concerned expenses incurred as a result of court costs. These expenses were incurred in 2005/2006 as a result of the council's defence of its policy to limit the number of Hackney Carriage vehicle licences. The original Court hearing for this matter was held in Plymouth in 2006 and the Court ordered that one vehicle licence should be issued and the Council should pay 60% of the Operators Costs. The Costs element of the order was reviewed shortly after the initial hearing and revised to payment of 20% of the operators costs (which had been estimated at £285k). Both of these decisions have been the subject of appeal to the Administrative Court in London. Hearings on both of these matters took place in the High Court in London in November 2007. At these hearings the Council was successful in defending the decision to grant only one vehicle licence, but the fees order was set at the original level of 60%. A legal challenge was made by the Council in respect of the fees order but the action was withdrawn following an agreed settlement of costs to be paid. No costs associated with these cases were contained in the accounts or previous fees. Appropriate amounts were removed from the budgets in 2008/09.

4.2 The recovery of these costs from a third party has been pursued and an out of court settlement agreed. The out of court settlement included a confidentiality clause which limits the level of detail that can be disclosed in this report. In summary, however, the settlement resulted in an unrecoverable amount totalling £30,431, this represents the recovery of 85% of the original costs claimed by the Council. External legal advice was sought during the negotiations and advice received was that further litigation would be unlikely to improve the final settlement given additional costs in pursuing the claim through the courts. This amount has been added to the 2010/11 accounts. It should be noted that the Council has offset some of its own internal costs associated with the negotiations and this sum reflects only externally incurred costs.

The burden of paying the unrecoverable amount must be met by vehicle proprietors. The costs were associated with the numbers of licensed vehicles and not connected with the licensing of drivers.

The accounts therefore show an increase of £30 per vehicle per annum for the next 3 years.

4.3 In order to meet the balanced account by 2013/14 it is proposed that some fees for the Hackney Carriage licences are increased by 5%. Due to the current level of surplus it is proposed for no increase to the private hire fees for 2011/12. The level of account deficit

and limited number of licenses determines that the fees for Hackney Carriage trade will be significantly higher than those for the Private Hire trade until 2013/14.

4.4 The original fee review in 2008 concluded that it was likely that an annual increase of 10% for Hackney Carriage fee would be required to bring the accounts into balance by 2013/14. More accurate projections and the reduction in expenditure now allow for a smaller annual increase.

4.5 The private hire account is still in surplus and consideration has been given to a reduction in fees to address this situation. Given the prospect of increased central support recharges for 2012/13 it is considered appropriate to review the situation again for the 2012/13 fee review.

#### 5.0 Criminal Records Bureaux (CRB) Checks

CRB checks for drivers are required at three yearly intervals after the first application. Currently the costs associated with Enhanced CRB checks (£36) have been included with the various licence fees, i.e. 1 & 3 year driver's licence and initial application fees.

5.1 Changes to the legislative framework and guidance have led to drivers now only receiving a standard CRB check costing £26. The current fees are been reduced to reflect the reduction in the costs of undertaking a CRB check.

In order to allow for greater clarity in the accounts and to allow for more flexibility in future changes to CRB costs, this element of the licence fee has been removed and will be charged separately as and when required. This change is reflected in Appendix I.

#### 6.0 **Future Budget Risks**

Central support recharges are currently allocated to the accounts on historic data. Corporately a more accurate level of central recharges are being developed, which are likely to significantly increase the amount charged to the accounts. Accurate figures were not available for this fee review, but hopefully will be included in the review for 2012/13.

6.1 The Hackney Carriage and Private Hire licensing system is frequently subject to challenges through the court systems, ombudsman and District Audit functions. In 2010 Guildford BC was heavily criticised for the management of their trade accounts which resulted in a significant repayment to the trade met by the Council's general funds. Officers have reviewed the findings of the District Audit and consider that there are no major implications for the current accounting system in place. As always, however, much of the law is subject to individual interpretation by judges and so officers will continue to monitor challenges to accounting systems in other councils to ensure that we have a defendable accounting system.

#### 7.0 **Conclusion**

7.1 Having considered legal advice on the fees structure, the councils existing policies, officers have drawn up the fees structures for 2011/ 2012, shown in the fees table, Appendix I. The proposed fees if adopted will enable the accounts to come into balance by 2013/14 subject to a number of assumptions and predictions.

7.2 The impact of fee increases will be reviewed annually and any necessary alterations will be approved as set out in the Council's scheme of delegation.

#### 8.0 **Recommendations & Reasons for recommended action**

8.1 The Committee resolve to:

Agree for the new fee structure as set out in the Fees Table (Appendix I) to be advertised in accordance with statutory requirements.

#### Reason

The Hackney Carriage taxi reserve account is in deficit by £129,099. The Private Hire taxi reserve account is in surplus by £186,944. Balancing the accounts by 2013/14 enables the Hackney Carriage trade to absorb the costs of the fees increase over a medium term period whilst addressing the deficit. A shorter period would produce much larger initial fee increase. Increasing the period would reduce the initial fee increases but would extend the period that the account deficit had to be supported by the council.

## APPENDIX I

### Proposed Fees for Hackney Carriage and Private Hire Licences 2011/12

#### Hackney Carriage Fees

Licence	Proposed Fee	Current Fee	Fee set in 2009
Vehicle Licence	£318.75	£275.00	£250.00
1 Year Drivers Licence	£164.10	£168.30	£153.00
3 Year Drivers Licence	£354.90	£374.00	£340.00
Duplicate Licence	£5.00	£5.00	£5.00
Vehicle Transfer	£27.00	£27.00	£27.00
Drivers Test	£63.00	£63.00	£63.00
Competency Test	£60.00	£60.00	£60.00
Driver Application Fee	£16.00	£52.00	£52.00
Replacement ID Card Fee	£10.00	£10.00	£10.00
Replacement Plate	£11.00	£11.00	£30.00
DVLA Licence Check	£18.00	£18.00	£18.00
Transfer from HC to PH/ Admin fee for refunds by cheque	£37.00	£37.00	£37.00
Transfer from HC to PH/ Admin fee for refunds by electronic transfer	£20.00	£20.00	NA
Temporary licence for replacement vehicle	£39.00	£39.00	NA
CRB Check	£26.00	NA	NA

#### **Private Hire Fees**

Licence	Proposed Fee	Current Fee	Fee set in 2009
Vehicle Licence	£120.00	£120.00	£120.00
1 Year Drivers Licence	£91.60	£103.67	£103.67
3 Year Drivers Licence	£185.00	£221.00	£221.00
Duplicate Licence	£5.00	£5.00	£5.00
Vehicle Transfer	£27.00	£27.00	£27.00
Drivers Test	£63.00	£63.00	£63.00
Competency Test	£60.00	£60.00	£60.00
Driver Application Fee	£16.00	£52.00	£52.00
Operator Application Fee	£140.00	£140.00	£140.00
Operator Fee (per driver)	£4.00	£4.00	£4.00
Replacement ID Card Fee	£10.00	£10.00	£10.00
Replacement Plate / Door Sticker	£11.00	£11.00	£30.00
DVLA Licence Check	£18.00	£18.00	£18.00
Transfer from PH to HC/ Admin Fee for refunds by cheque	£37.00	£37.00	£18.00
Transfer from PH to HC/ Admin fee for refunds by electronic transfer	£20.00	£20.00	£37.00
Temporary licence for replacement vehicle	£39.00	£39.00	NA
CRB Check	£26.00	NA	NA