

Wards Affected:

All Wards

ITEM 7

REGULATORY COMMITTEE

25 NOVEMBER 2019

REVIEW OF TAXI LICENSING FEES AND CHARGES

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Executive Summary

Each year Milton Keynes Council is required to determine the fees it will charge for driver, vehicle and operator licences under the Local Government (Miscellaneous Provisions) Act 1976 ('Act of 1976') and the Town Police Clauses Act 1847.

It is proposed that the Council increase taxi licensing fees by 2.1% in 2020/21. Under taxi licensing legislation a fee increase for vehicles and operators (Section 70 – Act of 1976) must be advertised in a local newspaper to enable public and trade representations to be made. Driver fee increases (Section 53 – Act of 1976) do not have to be advertised however it is considered best practice to do so.

1. Recommendation(s)

1.1 That the Committee:

- a) Approve the fees set out in the attached Annex to be advertised in accordance with Section 70 of Act of 1976;
- b) Authorise fees under section 53 (drivers) of the Act of 1976 to take effect from 1 April 2020 -
 - If no objections are received or if all objections received are withdrawn.
 - If objections are received the Committee delegates the consideration of the consultation responses and the final fee setting decision to the Head of Transport in consultation with the Chair & Vice Chairs of the Regulatory Committee.
- c) Recommend to Cabinet that fees under Section 70 (vehicles & operators) of the Act of 1976 take effect from 1 April 2020 –
 - If no objections are received or if all objections received are withdrawn.
 - If objections are received that the final determination is delegated to the Head of Transport in consultation with Cabinet member whose portfolio covers Taxi Licensing.

2. Issues

- 2.1 The fees charged by the Taxi Licensing Service must be considered by the Regulatory Committee and the Executive. The proposed fees are contained as an Annex and will be included in the general budget setting reports to Council in February 2020. The general principle is that the Taxi Licensing Service budget is 'ring fenced' and the cost of delivering the service is predominantly met by licensing fees.
- 2.2 In a recent Court case¹ that looked at taxi licensing fees, the High Court concluded that councils could only recover enforcement costs from 'vehicle' and 'operator' fees and not 'driver' fees. This decision therefore dispelled a view that taxi licensing regimes could be entirely self-financed. The Council's current Taxi Licensing budget is not self-financed as it does not place a charge on 'drivers' for enforcement costs. As a result the Taxi Licensing Service budget will continue to require some form of subsidy. An example of a 'driver' enforcement cost is 'battery'. If a driver commits the offence of 'battery' then they will be investigated by the Enforcement Team and will face disciplinary/revocation action. Under the Council's current practices, and supported by the recent High Court ruling, the cost of this process is funded by the council and not by 'driver' fees. It should be noted that most enforcement action taken by the Enforcement Team involves defective vehicles and this cost is recovered by vehicle fees. In regard to the costs associated with driver prosecutions, this does not involve Council fees as these costs are recovered from the driver directly through the Court process.
- 2.3 The 'ring fenced' nature of the budget requires the Council to consider its income and expenditure over more than one year and this should be clearly evidenced. The Council is predominantly reliant on the last full year of financial data for its relevant costs and they are set out in Table 1.

Table 1

Year	Income (£)		Expenses (£)		Net £		Net Var £
	Budget	Actual	Budget	Actual	Budget	Actual	
2014/15	662,888	505,986	597,627	718,299	-65,261	212,313	277,574
2015/16	733,888	530,053	771,544	761,470	37,656	231,417	193,761
2016/17	633,888	623,291	650,613	763,557	16,725	140,266	123,541
2017/18	633,888	555,958	710,861	558,288	76,973	2,330	-74,643
2018/19	633,888	555,291	728,260	576,671	94,372	21,380	-72,992

- 2.4 Since 2016 the Taxi Licensing Service has reduced its budget deficit from £231,417 to £21,380 by increasing productivity, reducing expenditure and

¹ Wakefield District PH & HC Assn v Wakefield Borough Council 2018

finding ways to attract new licence holders to Milton Keynes.² The current deficit of £21,380 is due to the need to fund specific enforcement action taken against drivers (not vehicles or operators) and the purchase of a new vehicle testing ramp – the previous ramp was at end-of-life.

Proposed increase

- 2.5 There has been a significant price fluctuation in taxi licensing since 1 April 2016 which are described below.
- 2.6 On 1 April 2016 the Council increased taxi licensing fees by up to 25%. This increase had an adverse effect and led to a significant reduction in the number of licences holders. As a result the Council's tax income fell by £67,333. Many vehicle proprietors and drivers obtained cheaper licences at neighbouring Councils. Taxi Licensing fees were adjusted by the Regulatory Committee in May 2017 to reflect policy changes and to attract licence holders back to MKC.³
- 2.7 In December 2018 the Regulatory Committee approved a 2.5% fee increase subject to advertising and consideration of any objections. The Council received 31 objections on the grounds that:
- Drivers could not afford the fee increase.
 - The Council's tax fees were already too high compared to other councils.
 - The Council should reduce fees by 5% to stop drivers going to other councils.
 - The fee increase was not justified as the Council had failed to provide effective enforcement on outside vehicles.
 - The Council should reduce costs and improve efficiency to save money.
- 2.8 After considering these objections and considering further information on the taxi fees charged by other councils, this Council did not increase taxi fees in 2019/20. The Council was concerned that licence holders would seek licences at neighbouring councils as they did in 2016/17.
- 2.9 In net terms therefore, Milton Keynes Council has not significantly increased taxi licensing fees since 1 April 2016.⁴ The net position, including changes to the Council's Taxi Policy in 2018⁵, has been successful, with 106 new drivers and 79 new vehicles licenses being granted (see Table 4). At this juncture,

² For further information see RC report dated 14 March 2018 -  [Proposals to Deal with Excessive Levels of Cross-Border Hiring and its Impact on Milton Keynes Residents and Taxi Licensing](#)

³The adjustment in 2017 resulted in taxi fees being marginally reduced overall however it should be noted that whilst some fees were reduced other fees did increase.

⁴ See footnote 3.

⁵ See footnote 2

officers propose it is more sustainable to increase fees regularly in line with cost increases (at least in keeping with inflation) than go long periods without a fee increase which may then necessitate a much larger increase which would be unpalatable to drivers.

- 2.10 Table 2 is an estimated guide that sets out the impact that a taxi fee increase would have on the Taxi Licensing Service budget deficit. After taking into consideration paras 2.4 – 2.9, officers are proposing that taxi licensing fees are increased by 2.1% which will raise income by approximately £11,661. This increase will just cover on-going inflationary (overhead) costs and mitigate any further deficit pressures. The 2.1% proposal is an average increase across all fees and each specific fee increase is stated in the Annex. The only exception to this 2.1% fee increase is the removal of the non-attendance fee of £30 and to replace it with a £61 vehicle test charge. The £30 non-attendance fee has been removed because it is no longer valid as Council procedure states that vehicle proprietors must pay for their vehicle test (currently £60) in advance. Therefore, should a vehicle proprietor fail to attend a test (and not give 48 hours notice) then they will not be refunded and must pay for a new test. Council officers believe this is fair as the inspection costs for the Council remain the same regardless as to whether the test was completed. In circumstances where vehicle proprietors provide 48 hours notice that they cannot attend then they are allocated another test slot at no extra cost. The cancelled test slot is then allocated to another vehicle.

Table 2

% increase	Estimated Income increase	Estimated Deficit
1%	£5,552	-£15,828
1.5%	£8,329	-£13,051
2.1%	£11,661	-£9,719
2.5%	£13,882	-£7,498
3%	£16,658	-£4,722
3.5%	£19,435	-£1,945
4%	£22,211	+£831

Fee comparison with Local Councils

- 2.11 Up to 50% of vehicles working in Milton Keynes are licensed by other Local Authorities.⁶ Table 3 sets out what other Local Authorities charge in comparison to the proposed fees set out in the Annex. Whilst Milton Keynes is more expensive than many of its neighbouring councils this extra income is essential in order to fund enforcement staff to deal with the additional responsibilities that out of town vehicles create including plying for hire detection and vehicle inspections.⁷ As set put in paragraph 2.9, vehicle and

⁶ See footnote 2

⁷ See footnote 2

driver growth has returned to Milton Keynes in recent years and council officers believe that a small 2.1% will not adversely affect this growth.

Table 3

Authority*	Vehicle Fee (per annum)	Driver Fee (per annum)	Total cost of both licenses	% difference under new fee proposals (2020)
Milton Keynes	283	75	358	
Luton	310	150	460	22% more than MKC
South Northants	270	67	337	6% cheaper than MKC
Aylesbury	233	64	297	17% cheaper than MKC

* Figures used are an average fee for HC & PH and do not include vehicle and driver tests as Councils use different methods.

Fee Calculations

- 2.12 The cost of a licence is split into three categories – administration, enforcement and support costs (overheads). The proposed 2.1% increase is to cover the Council’s support costs only and should this not be agreed a cost pressure will be needed. As the number of taxi licence applications has increased in the last financial year (see Table 4) this has enabled administration and enforcement costs to be shared amongst more vehicles. As a result there is no pressure at this time to specifically increase administration and enforcement fees.

Table 4

	2018/19	2017/18	2016/17
Hackney Carriage Vehicle Licences issued	206	206	206
Private Hire Vehicle Licence issued	737	658	885
Operator Licences issued	67	69	79
Driver licences issued	454*	348	264

- * The Council has 1203 drivers currently licensed of which 454 were either new or renewed in 2018/19 (driver licenses are issued for 3 years). The Council saw an increase of 106 drivers from 2017/18 as a result of changes made to the Council policy in March 2018.⁸

Enforcement Costs

- 2.13 As stated in paragraph 2.4, the current budget deficit of £21,380 is partly due to the Council’s commitment to taxi enforcement. The Taxi Licensing Service currently employs 2.5 taxi enforcement officers in comparison to 5 taxi enforcement officers employed in 2015. During this period the overall productivity of the enforcement service has improved as set out in Table 5.

⁸ See footnote 2

The benefits of improved enforcement is a higher level of public safety for all Milton Keynes residents though the:

- Detection of plying for hire offences;
- Suspension of defective vehicles;
- Investigation and resolution of complaints; and
- Revocation/suspension/re-training of drivers who are in breach of Council policy.

Table 5

	2018/19	2017/18	2016/17
Vehicle Enforcement Checks conducted	7033	6121	N/A
Enforcement Actions/Notices issued	1609 (23%)	1005 (16%)	207
Vehicle tests undertaken	2369 (24% fail)	2474	3444
Total Complaints received	190	161	N/A
Complaints about Milton Keynes drivers	119	109	N/A
Complaints about out of town drivers	71	52	N/A
Drivers Successfully Prosecuted at Court	25	30	28
Driver Licence Refused/Revoked	7	5	6
Service Requests	1124	1133	681

Process to Adopt Fees

2.14 Should the proposed fees be approved by the Committee then fees set out in the Annex will be advertised in accordance with Section 70 of the Act of 1976. The fees will be advertised for a period of 28 days and if no objections are received they will come into effect on 1 April 2020.

2.15 If objections are received the Council has 2 months to consider those consultation responses and make a final determination on the fees to be applied.

3. Options

3.1 That the Committee –

- Approve the fees attached at Annex A to be advertised in accordance with Section 70 of the Act 1976.
- Authorise fees under section 53 (drivers) of the Act 1976 to take effect from 1 April 2020:
 - If no objections are received or if all objections received are withdrawn.

- If objections are received the Committee delegates the consideration of the consultation responses and the final fee setting decision to the Head of Transport in consultation with the Chair & Vice Chairs of the Regulatory Committee.
- c) Recommend to Cabinet that fees under Section 70 (vehicles & operators) of the Act 1976 take effect from 1 April 2020 –
- If no objections are received or if all objections received are withdrawn.
 - If objections are received that the final determination is delegated to the Head of Transport in consultation with Cabinet member whose portfolio covers Taxi Licensing.

(Recommended option)

3.2 That the Committee do not approve the fees.

(Not recommended and will result in the service being subsidised further by alternative budgets, or having to make further enforcement cost savings).

4. Implications

4.1 Policy

N/A

4.2 Resource and Risk

N	Capital	Y	Revenue	N	Accommodation
N	IT	Y	Medium Term Plan	N	Asset Management

The 2.1% increase in the taxi fees and charges is in line with the general income inflation assumptions being applied to the rest of the council's income budgets for 2020/21.

4.3 Carbon and Energy Management

None

4.4 Legal

4.4.1 The power to impose fees on licences granted is authorised by section 53(2) and Section 70 of the Local Government (Miscellaneous Provisions) Act 1976.

4.4.2 The Local Government Association issued guidance in 2017⁹ to councils relating to fees and stated:

- It is an accepted principle that licensed activities should be funded on a cost-recovery basis, paid for by those benefiting from the licensed activity, rather than drawing on the public purse.
- Charges must be reasonable and proportionate to the cost of the processes associated with a licensing scheme. Councils must not use fees to make a profit or act as an economic deterrent.

Whilst this guidance is helpful it is based on the outdated premise that fees should be cost neutral and therefore the taxi licensing budget should balance. The recent Wakefield High Court decision in 2018¹⁰ dispelled the general principle that licensing regimes should be self-financing.

5. Other Implications

N	Equalities/Diversity	N	Sustainability	N	Human Rights
N	E-Government	Y	Stakeholders Taxi Drivers	N	Crime and Disorder

⁹ Open for Business – LGA Guidance on locally set licence fees May/June 2017

¹⁰ See footnote 1