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## AGENDA

<b>Committee</b>	PUBLIC PROTECTION COMMITTEE
<b>Date and Time of Meeting</b>	TUESDAY, 7 JUNE 2016, 10.30 AM
<b>Venue</b>	COMMITTEE ROOM 4 - COUNTY HALL
<b>Membership</b>	Councillor Parry (Chair) Councillors Manzoor Ahmed, Boyle, Goddard, Hudson, Kelloway, Lloyd, Morgan, Murphy and Simmons

### 1 Chairperson

To note that the Council on 26 May 2016 appointed County Councillor Parry as Chairperson of this Committee.

### 2 Appointment of Committee

The Council on 26 May 2016 appointed the following Members to this Committee:

Councillors Parry (Chairperson), Manzoor Ahmed, Boyle, Goddard, Hudson, Kelloway, Lloyd, Morgan, Murphy (Deputy Chair) and Simmons

### 3 Terms of Reference

- (a) Those functions listed in Sections B and C, and paragraph 10 of Section I, of Schedule 1 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities)(Wales) Regulations 2007 (the Regulations), any amendments thereto and any matters ancillary thereto as defined in Regulation 3 (2) to (4) of the Regulations, except to the extent that such matters fall to the Licensing Committee by virtue of Section 7 of the Licensing Act 2003 or the Gambling Act 2005.
- (b) In relation to those functions acting as Appeal Committee where appropriate.
- (c) The discharge of any function relating to the control of pollution or the management of air quality.

- (d) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.
- (e) Any function relating to contaminated land.
- (f) The service of an abatement notice in respect of a statutory nuisance.
- (g) Any function under a local Act of a licensing or regulatory nature.
- (h) Any function in relation to the making of an Alcohol Consumption in Designated Public Places Order under the provisions of the Criminal Justice and Police Act 2001.

#### **4 Apologies for Absence**

To receive apologies for absence.

#### **5 Declarations of Interest**

To be made at the commencement of the agenda item in question, in accordance with the Members' Code of Conduct.

#### **6 Minutes**

*(Pages 1 - 8)*

To approve as a correct record the minutes of 12 April 2016 and the Sub Committee held on 12 April and 10 May 2016.

#### **7 Application for Prestige Vehicle - Toyota Prius**

#### **8 Street Trading Licence Variation**

*(Pages 9 - 12)*

#### **9 Review of General Fees and Charges**

*(Pages 13 - 20)*

**David Marr**

**Interim Monitoring Officer**

Date: Wednesday, 1 June 2016

Contact: Graham Porter, 029 2087 3401, g.porter@cardiff.gov.uk

## PUBLIC PROTECTION COMMITTEE

12 APRIL 2016

Present: County Councillor Parry(Chairperson)  
County Councillors Boyle, Kelloway, Murphy and Walsh

## 39 Apologies for Absence

Apologies for absence were received from Councillors Manzoor Ahmed, Bridges, Goddard, Morgan and Simmons.

## 40 Declarations of Interest

No declarations of interest were received.

## 41 Minutes

The minutes of the meeting held on 8 March 2016 were approved by the Committee as a correct record and were signed by the Chairperson.

## 42 Hackney Carriage and Private Hire Vehicle Fees and Charges

Members were advised that the Committee at its meeting held on 9 February 2016 resolved to authorise the Head of Shared Regulatory Services to carry out the public notice procedure in respect of proposed changes to the Hackney Carriage/Private Hire fees and charges.

In response to the public notice objections to the proposed changes were received. The objections were set out in Appendix 1 of the report. The Committee was asked to consider the objections received and determine whether it wishes to proceed with proposed changes to the fees and charges. Members were also asked to agree a suitable date for the new fees and charges to come into effect. The Committee noted that the proposed revised fees were universally reduced.

Members were advised that the main focus of the objections were the validity of the fees and the use of the fees toolkit; the legality and cost of 6 month vehicle licences; and the perceived lack of detail regarding the calculations. The report addressed each of these concerns.

Sharyn Donnaghie was invited to address the Committee on behalf of herself, Carl Cummings, Supertax and Primeoutlet Ltd. Ms Donnaghie raised concerns that the toolkit which had been used to calculate the proposed revised fees has not be provided to the trade. Questions that had been submitted as part of the representations remained unanswered and Ms Donnaghie perceived that there had been a general lack of openness and transparency on the part of officers.

Ms Donnaghie also considered that under the provisions of the Transport Act 1981 the authority did not have the right to charge different fees for different licences. Furthermore, Ms Donnaghie considered that Hackney Carriage vehicles licences can only be granted for 12 months. Members were advised that Bridgend Council, Cardiff's partner in the Shared Regulatory Service, did not apply 6-month vehicle licences and

applied an inspection fee for vehicles more the 5-years old.

Concerns were also expressed that the officer structure in the Licensing team in Cardiff was the same. However, staff had been subjected to 18 months of reorganisation. Licensing Officers were not solely dedicated to Cardiff and therefore the cost of the service cannot be the same. Ms Sharyn Donnachie questioned why when she had rung the licensing section to speak to Rhys Morgan, she was told that he was working that day for the Vale of Glamorgan. Ms Sharyn Donnachie queried the calculation for the fees when the licensing officers were not working full time for Cardiff Council. Ms Donnachie stated that she had grave reservations regarding the restructuring of the department. She questioned the legal advice given to the Committee at the meeting held on 5 February 2016.

In closing Ms Donnachie summarised her concerns. These were:

- That insufficient detail has been shared with the trade
- That it was not legal to issue 6 month hackney carriage vehicles licences
- That the costs for the Licensing Department had not changed between 2009 and 2016, despite the department being subject to restructuring and officers working for the shared Regulatory Service and not solely for Cardiff Council.

Members discussed the representation receive and the validity of the statements made. Some Members considered that a considerable amount of details was provided to representatives of the trade.

Officer provided further details of the numbers of hackney carriage/private hire vehicle licence applications received during 2014/15 and 2015/16. Members were asked to note that there was an increase in number of applications received during 2015/16. This increase contributed to a subsequent reduction in the fee.

Members sought reassurance that they were satisfied the agreed fees were cost neutral. Officers were requested to assure the Committee that the aggregate costs represented actual costs and these were unlikely to incur a significant surplus. Officers stated that the 'toolkit' used to calculate the fees was developed as the result of legal challenge. The toolkit was being used by the majority of Welsh Authorities and has also been recommended for use by the Institute of Licensing. Officers considered the toolkit to be the most robust and suitable method available as a means to calculate fees.

Members asked why the toolkit has not been made available to the trade. Officers advised that whilst the toolkit spreadsheet was not made available, all the data which fed into the calculations has been made available. Whilst the methodology used to calculate the fees was the most robust ever, it may not be possible to satisfy every member of the trade.

Responding to points raised regarding the allocation of officer time within the Shared Regulatory Service, officers stated that the licensing elements in each authority were treated separately from the other regulatory services.

Officers were asked to clarify whether the authority has a right to apply a 6-month vehicle licence to hackney carriages. Officers stated that the legal advice contained within the report was correct and the authority is able to grant 6-month vehicle licences for hackney carriages. Whilst Bridgend Council do not grant such licences, the Vale of Glamorgan

does. Officers are currently undertaking a review of the three authorities licencing policies with a view to introducing greater harmonisation where possible. Many other local authorities have 6-month vehicle licences for hackney carriages.

The Committee was recommended to approve the revised fees and charges as set out in the report. Members moved an additional recommendation to the report requiring officers to work in closer liaison with trade representatives.

RESOLVED – That the revised fees and charges be approved with an implementation date of 2 May 2016.

The meeting terminated at 11.30 am

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PUBLIC PROTECTION SUB COMMITTEE

12 APRIL 2016

Present: County Councillor Parry(Chairperson)  
County Councillors Murphy and Kelloway

3 : HACKNEY CARRIAGE/PRIVATE HIRE MATTERS

RESOLVED – That the following matters be dealt with as indicated:

- (1) Application 1  
No further action.
- (2) Application 2  
4 days suspension for using a mobile phone whilst driving
- (3) Application 3  
That the driver receives a written warning for urinating in a public place.
- (4) Application 4  
10 day suspension for the unreasonable refusal of a fare.
- (5) Application 5  
That the driver receives a written warning and attends a speed awareness course within 6 month.
- (6) Application 6  
Deferred for 1 month
- (7) Application 7  
Operator's licence revoked as the Sub Committee did not consider the applicant to be a fit and proper person to hold a licence.
- (8) Application 8  
No further action
- (9) Application 9  
No further action
- (10) Application 10  
Application for a Hackney Carriage/Private Hire Drivers Licence refused.

4 : LEGAL PROCEEDINGS AND ENFORCEMENT ACTIONS

RESOLVED – That the legal proceedings and enforcement actions that had taken place during the period be noted.

The meeting terminated at 3.00pm

PUBLIC PROTECTION SUB COMMITTEE

10 MAY 2016

Present: County Councillor Parry(Chairperson)  
County Councillors Goddard and Hudson

5 : HACKNEY CARRIAGE/PRIVATE HIRE MATTERS

RESOLVED – That the following matters be dealt with as indicated:

- (1) Application 1  
Licence revoked for repeatedly committing traffic offences.
- (2) Application 2  
Deferred for 1 month.
- (3) Application 3  
10 day suspension for the unreasonable refusal of a fare.
- (4) Application 4  
10 day suspension for the unreasonable refusal of a fare.
- (5) Application 5  
10 day suspension for the unreasonable refusal of a fare.
- (6) Application 6  
Application for the grant of a Hackney Carriage/Private Hire Drivers licence refused.
- (7) Application 7  
Application for the grant of a Hackney Carriage/Private Hire Drivers licence refused.
- (8) Application 8  
Application for the grant of a Hackney Carriage/Private Hire Drivers licence refused.
- (9) Application 9  
Application for the grant of a Hackney Carriage/Private Hire Drivers licence approved.
- (10) Application 10

Application for the grant of a Hackney Carriage/Private Hire Drivers licence approved.

(11) Application 11

Application for the grant of a Hackney Carriage/Private Hire Drivers licence refused.

The meeting terminated at 3.00 pm

**CITY OF CARDIFF COUNCIL  
CYNGOR DINAS CAERDYDD**

**Agenda No.**

**PUBLIC PROTECTION COMMITTEE: 7 June 2016**

**Report of the Head of Shared Regulatory Services**

**APPLICATION TO AMEND A STREET TRADING LICENCE**

**1. Background**

- 1.1 The Licensing Section has received an application from Mr Tim Harris to vary his Street Trading Licence. Mr Harris is currently licensed under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to sell baguettes, jacket potatoes, pre-cooked hotdogs, burgers and non-alcoholic drinks.
- 1.2 Mr Harris is applying to vary his licence so he can also sell ice-cream.

**2. Details.**

- 2.1 At its meeting of 4<sup>th</sup> August 2015, the Public Protection Committee approved the change in street designation of part of Working Street to a licence street, to allow Mr Harris to relocate his street trading business from Central Square due to the redevelopment of the area.
- 2.2 Mr Harris has requested an addition to his licence to allow the sale of ice-cream as he feels that sales of hot food will decrease in the summer months.

**3. Street Trading Legislation**

- 3.1 Street trading is controlled by Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. Under this legislation, the Council may only refuse an application on any of the following grounds:
- (a) that there is not enough space in the street for the applicant to engage in the trading in which he desires to engage without causing undue interference or inconvenience to persons using the street;
  - (b) that there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;
  - (c) that the applicant desires to trade on fewer days than the minimum number specified in a resolution passed by the Council [in Cardiff there is no such resolution];

- (d) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (e) that the applicant has at any time been granted a street trading licence by the Council and has persistently refused or neglected to pay fees due to them for it or charges due to them for the collection of refuse, the cleansing of streets, and other services rendered by them to her in her capacity as licence-holder;
- (f) that the applicant has at any time been granted a street trading consent by the Council and has persistently refused or neglected to pay fees due to them for it;
- (g) that the applicant has without reasonable excuse failed to avail himself to a reasonable extent of a previous street trading licence

3.2 Mr Harris is a long established licenced street trader and it is unlikely that any of the grounds for refusal listed above apply.

With regard to 3.1 (b) above, there are other businesses within the vicinity that the Committee might be aware of. There is currently one other licensed street trader on an adjacent pitch in Working Street who is licensed to sell fruit and vegetables. The only permanent premises on Working Street selling food is Atigiano coffee shop. There are also seasonal temporary markets.

The “street” for the purposes of this legislation is the designated licence street in which Mr Harris’s stall is located.

#### **4. Achievability**

This report contains no equality personnel or property implications.

#### **5. Legal Implications**

5.1 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that a street trading licence shall specify:

(a) The street in which, days on which, and times between which the licence holder is permitted to trade; and

(b) The description of articles in which he is permitted to trade.

5.2 As indicated in Section 3 of this Report, an application for a street trading licence in a Licence Street can only be refused on the grounds specified at paragraph 3.1.

5.3 If the Council was minded to refuse the application it would have to inform Mr Harris of the ground on which it would refuse and give him the opportunity to

make representations. However there are no grounds on which the Committee may refuse the application.

**6. Financial Implications.**

6.1 This report contains no direct financial implications

**7. Recommendation**

7.1 It is recommended that the Committee determine the application made by Mr Tim Harris to vary his street trading licence.

**Dave Holland**  
**HEAD OF SHARED REGULATORY SERVICES**

**4 May 2016**

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers: Minutes of the Report of the Director of Governance & Legal Services to the Public Protection Committee: 'Control of Street Trading – Working Street' 4<sup>th</sup> August 2015.

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**CARDIFF COUNCIL  
CYNGOR CAERDYDD**

**Agenda No.**

**PUBLIC PROTECTION COMMITTEE: 7 June 2016**

**Report of the Head of Shared Regulatory Services**

**REVIEW OF GENERAL LICENCE FEES**

**1. Background**

1.1 At its meeting on 3<sup>rd</sup> March 2015 the Committee authorised the introduction of the current fees for the general licensing functions detailed in the table below, which were implemented on 1<sup>st</sup> April 2015.

1.2 The purpose of this report is to approve new fees for these licensing functions.

**2. Details.**

2.1 The table below shows the existing fees compared with the proposed new fees.

	<b>Existing Fee</b>	<b>Proposed Fee</b>
<b>Sex Establishment Licences:</b>		
<b>Sex Shop:</b>		
Grant	£1139	£835
Renewal	£804	£613
Transfer	£522	£436
<b>Sexual Entertainment Venue:</b>		
Grant	£1139	£928
Renewal	£804	£706
Transfer	£522	£436
<b>Skin Piercing:</b>		
Premises	£93	£97
Person	£37	£43

<b>Street Trading:</b>		
Licence	£563	£594
Merchandise Consent	£120	£166
Food Consent	£195	£211
Mobile Consent	£83	£83
Programme seller	£32	£32
St Mary Street Market 3 months	£60	£60
St Mary Street Market 1 month	£46	£46

- 2.2 The fees have been calculated using a toolkit developed by the Wales Licensing Expert Panel. The toolkit is being used by all Welsh local authorities. The method used to calculate the fees and details of the figures are shown in Appendix A.
- 2.3 The fees for a new Sex Establishment licence are a ‘grant’ fee rather than an application fee. The Licensing Section will therefore refund a proportion of the fee (£409 in respect of sex shops and £502 in respect of Sexual Entertainment Venues) if the application is refused.

### **3. Legal Implications**

- 3.1 Regulation 18(4) of the Provision of Services Regulations 2009 provides that charges under an authorisation scheme must be reasonable and proportionate to, and not exceed, the cost of the procedures and formalities under the scheme. The fee charged cannot exceed the cost of the procedures, i.e. the steps which an applicant for a licence has to take if he wishes his application to be granted or his licence to be renewed. A fee can include the administrative costs involved, and the costs of vetting the applicants (in the case of applications) and the cost of investigating compliance with licence terms (in the case of renewals).
- 3.2 It should be noted that certain licensing activities are specifically excluded from the 2009 Regulations; these are taxi licensing, cinema licensing and gambling licensing.

### **4. Financial Implications.**

- 4.1 The Licensing Service is required to be self financing within the limitations of statute.
- 4.2 It is essential that the new fees are set at a level which fully funds the costs of the service insofar as permissible by statute.

**5. Recommendation**

- 5.1. That the proposed fees and charges outlined in the report are approved with an implementation date of 1<sup>st</sup> July 2016

**Dave Holland**  
**HEAD OF SHARED REGULATORY SERVICES**

**06 May 2016**

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background Papers: None

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## Appendix A

### **Calculation Method:**

The general licence fees are calculated using a toolkit produced by the Wales Licensing Expert Panel. The purpose of the toolkit is to provide a consistent and robust mechanism to setting licensing fees; all other Welsh authorities and many English authorities use the toolkit

### **Part 1 –Cost Summary**

All general expenditure across the Licensing Section (based on 2014/15 figures) is documented and applied to each post to give an hourly rate of each member of staff.

#### **Licensing Section General Expenditure:**

Support Services	£86,990
Accommodation Costs	£46,000
Capital Financing	£2,950
Employee Related (Excl salary)	£13,721
Transport	£2,733
Supplies & Services	£66,199

The total general expenditure (£204,872) is divided amongst each member of staff (14 in total) to give an hourly rate.

Licensing Support Assistant (x3)	£32.00
Licensing Assistant (x2)	£32.00
Licensing Enforcement Officer (x6)	£44.50
Senior Enforcement Officer	£48.00
Senior Technical Officer	£48.00
Team Manager	£53.50

*These figures have been rounded to the nearest 0.50*

## **Part 2 – Application Costs**

Officer time spent on tasks relating to the licence type are calculated in minutes such as dealing with enquiries, general admin, meetings, project work training, complaint investigation, compliance and enforcement.

The following additional costs are applied to each licence type:

Sex Establishments	£1677
Skin Piercing	£277
Street Trading Licence	£1935
Street Trading Consent	£9043

Any additional costs such as undertaking additional applications such as variations, replacement licences, etc., are added to the application specific costs.

The costs set out above are divided by the total number of relevant applications to give the following costs per application:

Sex Establishments	£302
Skin Piercing	£14
Street Trading Licence	£323
Street Trading Consent	£100

### **Part 3 Process steps**

The cost of the administration of the licence (based on the hourly rates calculated in Part 1) and are added to the application costs outlined in part 2 above resulting in the following fees:

**Cost of 1 year sex shop licence grant:**  
**£835**

**Cost of 1 year sex shop licence renewal:**  
**£613**

**Cost of 1 year sexual entertainment venue licence grant:**  
**£928**

**Cost of 1 year sexual entertainment venue licence renewal:**  
**£706**

**Cost of sex establishment licence transfer:**  
**£436**

**Cost of skin piercing premises registration:**  
**£97**

**Cost of skin piercing personal registration:**  
**£43**

**Cost of 1 year street trading licence:**  
**£594**

**Cost of street trading merchandise consent:**  
**£166 (per event)**

**Cost of street trading food consent:**  
**£211 (per event)**

**Cost of street trading mobile consent:**  
**£83 (per event)**

**Cost of street trading programme seller consent:**  
**£32 (per event)**

**Cost of street trading consent for St Mary Street Market:**  
**£60 (3months)**

**£46 (1month)**

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