

Hartrey, Claire

From:
Sent: 16 March 2016 20:48
To: Holland, Dave; Licensing (Licensing, Regulatory); wlane@valeofglamorgan.gov.uk; Hartrey, Claire; Sharyn
Cc: Parry, Jacqueline (Cllr); Ahmed, Manzoor (Cllr); Boyle, Joe (Cllr); Bridges, Ed (Cllr); Goddard, Susan (Cllr); Hudson, Lyn (Cllr); Kelloway, Bill (Cllr); Morgan, Derrick (Cllr); Murphy, Jim (Cllr); Simmons, Elaine (Cllr); Walsh, Monica (Cllr)
Subject: Formal Objection to the variation of Hackney Carriage & Private Hire Licensing Fees
Attachments: Objection to Variation of Vehicle Fees From locx

Head of Regulatory Services
 City Hall
 Cathays Park
 Cardiff
 CF10 3ND
licensing@cardiff.gov.uk

16 March 2016

Dear Mr Holland

In Confidence

**Formal Objection to the variation of Hackney Carriage & Private Hire Licensing Fees
 Public Notice Published on 18 February 2016**

1. I have been copied into the emailed, confidential correspondence sent to the Licensing Committee Councillors and Senior Officers. I note that no substantive response has been made to the key issues raised, other than a remark at the Committee Meeting of 9 February 2016 that the Council was on "*safe ground*" and pledge that and other objectors would be allowed to address the Committee at the April Meeting.
2. If the advice of Cardiff Council Officers is "*safe*", then those Officers have had more than ample time to explain why instead of going to silence / avoiding specific replies?
3. Until detailed and specific responses are received in a document, are Officers advising the continuance of a law breaking policy? An ultra vires act, without properly informing anyone entitled to make an objection under the Public Notice procedure, i.e. the public, the fee payers and the elected Councillors. Is the duty *to be fully and properly informed* being ignored? Is consultation the Public Notice objection procedure is being abused / subverted?
4. I have been a member of the Cardiff taxi industry and vehicle owner since before 1976 and have never known a Public Objection to be successful against Licence Fees proposed by Senior Officers, except on one occasion when a minor amendment was made in order to sustain *reasonable profits*. **It later transpired in High Court proceedings that Senior Council Officers had to admit *making a mistake* as the Council is not entitled to make any profit or raise any excess revenue whatsoever.**
5. I was present at the Council Meetings of approximately 1988 when Officers did not reveal the restrictions placed upon the Council by the *law of the land* and imposed a fee collecting regime based upon four monthly, six monthly and twelve monthly fees. Until reading the recent confidential correspondence of I did not realise that Cardiff Council was actually *breaking the law*, how can the Council break the law and at the same time inform elected Councillors that the ground is *safe*? (As on 09/02/16).
6. One vehicle fee of £25 (subject to inflation) was prescribed by Parliament. I have not been able to find any law allowing two or three different fees to be applied instead of one fee on an annual basis, and even if such a power did exist I believe that any variation would have to be strictly pro-rata. This has not been the case in Cardiff since the Council Minutes of 1988 introduced different fees for the same class of vehicle (i.e. Hackney Carriage and also

Private Hire) based upon age discriminatory descriptions. Will the Council please explain the reasons for this disobedience?

7. The established policy and practice since 1988 has always been to charge more fee per month for a four month licence than for a six month licence, and also to charge more fee per month for a six month licence than for a twelve month licence. Even though separate MOT / inspection fees were also being compelled to Cardiff Bus Ltd trading as a profit making, private limited company every 4, 6 and 12 months. Those extra compulsory fees (over and above and separate to the prescribed fee of £25 plus inflation) were collected by Cardiff Council's Licensing Office in Sloper Road and passed onto Cardiff Bus Ltd up until 2010. If no extra fees were paid to profit making Cardiff Bus Ltd, no licence would be issued by Cardiff Council. If this practice was not unlawful *abuse of a dominant position* or adoption of an unlawful Company Store / Truck System, why weren't those inspection fees part of the £25 (subject to inflation) prescribed by Parliament as an annual fee to reimburse inspection costs etc. as provided by the Act of 1976 (as amended)?

8. If a vehicle is tested every 26 weeks at a separate cost, how can that vehicle require more Officer time costs than a vehicle that is tested every 52 weeks? In other words, a short term vehicle licence should cost less per month than a twelve month licence, not more in fee per month?

a. However, this has not been the case from 1988 to the present day. Is this why Senior Officers have *gone to silence*? The Penalty Points Scheme was also unlawful from 1988 to 2011, were the costs of holding those disciplinary hearings also passed onto licence fee payers? As the Penalty Points Scheme was unlawful, was passing on the costs of implementing and enforcing that scheme to licence fee payers also unlawful from 1988 to 2011?

9. Neighbouring Bridgend Council charge an additional £3 admin fee only for a short term vehicle licence which is far less than the extra fees being charged by Cardiff Council (assuming that a short term vehicle licence is lawful for some reason of which I am not aware).

10. If *concealment by silence* continues (from 1988 and since the email of 1 February 2016) despite this Public Notice objection, and if that withholding of answers to bona fide questions continues, what will the remedy be?

11. If **nobody** is *fully and properly informed* how can any decision be made that is rational, fit and proper at the Licensing Meeting of 12 April 2016 (given that nobody could make a properly informed objection to the Public Notice of 18 February 2016)?

12. Given the prevailing circumstances and context, I formally object on the grounds that the fees charges and the fees structures are (inter alia) irrational / illogical, unlawful, ultra vires, unfair and disproportionate.

Awaiting your emailed response to the questions specifically raised since 1 February 2016 some seven weeks ago. What has happened to Cardiff Council's published pledge to be 'open, honest and forthright'?

Yours sincerely

As a member of the public, licence fee payer, person aggrieved.

Hartrey, Claire

From:
Sent: 17 March 2016 19:12
To: Holland, Dave; Licensing (Licensing, Regulatory); wlane@valeofglamorgan.gov.uk; Hartrey, Claire; Sharyn
Cc: Parry, Jacqueline (Cllr); Ahmed, Manzoor (Cllr); Boyle, Joe (Cllr); Bridges, Ed (Cllr); Goddard, Susan (Cllr); Hudson, Lyn (Cllr); Kelloway, Bill (Cllr); Morgan, Derrick (Cllr); Murphy, Jim (Cllr); Simmons, Elaine (Cllr); Walsh, Monica (Cllr)
Subject: Formal Objection to the variation of Hackney Carriage & Private Hire Licensing Fees

Head of Regulatory Services
City Hall
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licensing@cardiff.gov.uk

17 March 2016

Dear Mr Holland / Elected Members

In Confidence

**Formal Objection to the variation of Hackney Carriage & Private Hire Licensing Fees
Public Notice Published on 18 February 2016**

1. I am fully aware of the communications between Cardiff Council and [redacted] since the Taxi Forum Meeting of November 2015 approved even more extra fees for vehicles suffering age descriptions.
2. [redacted] is a licence fee payer and is aggrieved and formally makes this objection on the grounds that the fee charges and the fee structures, from 1988 to the present day, actual and proposed, have been and will be (inter alia) irrational / illogical, unlawful, ultra vires, over charged, unfair and disproportionate.
3. When Officers are aware of law breaking the duty is to prevent further law breaking?

Awaiting your emailed response to this formal objection and also to the questions specifically raised since 1 February 2016, now some seven weeks ago.

Yours sincerely

Hartrey, Claire

From:
Sent: 16 March 2016 20:50
To: Holland, Dave; Licensing (Licensing, Regulatory); wlane@valeofglamorgan.gov.uk; Hartrey, Claire; Sharyn
Cc: Parry, Jacqueline (Cllr); Ahmed, Manzoor (Cllr); Boyle, Joe (Cllr); Bridges, Ed (Cllr); Goddard, Susan (Cllr); Hudson, Lyn (Cllr); Kelloway, Bill (Cllr); Morgan, Derrick (Cllr); Murphy, Jim (Cllr); Simmons, Elaine (Cllr); Walsh, Monica (Cllr)
Subject: Formal Objection to the variation of Hackney Carriage & Private Hire Licensing Fees
Attachments: Objection to Variation of Vehicle Fees From) Ltd.docx

Head of Regulatory Services
City Hall
Cathays Park
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licensing@cardiff.gov.uk

16 March 2016

Dear Mr Holland / Elected Members

In Confidence

**Formal Objection to the variation of Hackney Carriage & Private Hire Licensing Fees
Public Notice Published on 18 February 2016**

1. [redacted] is fully aware of the communications between Cardiff Council and [redacted] since the Taxi Forum Meeting of November 2015 approved even more extra fees for vehicles suffering age descriptions. The proposal that was to be put in a Report to the Licensing Committee was apparently postponed and blank pages inserted in the Report for 9 February 2016.
2. [redacted] is a licence fee payer and is aggrieved and formally makes this objection on the grounds that the fee charges and the fee structures, from 1988 to the present day, historic, actual and proposed, have been and will be (inter alia) irrational / illogical, unlawful, ultra vires, over charged, unfair and disproportionate.
3. When Officers cannot rebut or answer questions suggesting law breaking, is the duty the duty of the Licensing Meeting of 12 April 2016 to prevent further law breaking?
4. Council Officers have Reported that as Members of a National Officers Association they are using a "*Fees Toolkit*" which is used by every Council in Wales. However, that "*Fees Toolkit*" is producing different fees for different Councils, some of which are still making unlawful profits from licence fees despite the knowledge of the National Association. Is that Association in disrepute?
 - a. Why has that "*Fees Toolkit*" or formula been kept a secret?
 - b. How can anyone who does not know anything about the "*Fees Toolkit*" / formula make a proper formal Public Notice objection to its use / application? (Including the Elected Members)

Awaiting your emailed response to this formal objection and also to the questions specifically raised since 1 February 2016, now some seven weeks ago.

Yours sincerely

Head of Regulatory Services
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licensing@cardiff.gov.uk

Sharyn Donnachie
Primeoutlet Ltd
Unit 8 Lamby Park Industrial Estate
Cardiff
CF3 2EX

17 March 2016

Dear Mr Holland

**Formal Objection to the variation of Hackney Carriage & Private Hire Vehicle Licensing Fees
Public Notice Published on 18 February 2016**

1. Please find attached as Appendix 1 the correspondence between Cardiff Council and myself since 26 January 2016 in relation to the proposed variation of Hackney Carriage & Private Hire Vehicle Licensing Fees. Please note that despite the assurance given by Mr Will Lane on 3 February 2016 (Page 11) no substantive response has been received on behalf of Cardiff Council.

2. **Calculation of Fees:** Please find attached as Appendix 2 the calculations provided to me by Cardiff Council on 26 March 2013 in support of the Councils calculation of the cost of licensing procedures (these calculations were provided within 7 files).

Please refer Appendix 1, pages 18 and 19 "The method used to calculate the fees and details of the figures" as detailed in the Officer's report to the Public Protection Committee Meeting of 9 February 2016.

I note that the level of detailed provided in 2016 is significantly reduced and makes analysis and comparison impossible.

I detail below a table of the current and proposed fees (Appendix 1 page 15). The reduction of the Hackney Carriage Vehicle 12 Month renewal fee is disproportionate to the reduction applied to all other fees.

	Existing Fee	Proposed Fee	Decrease	Decrease %
HC 12 Month Renewal	£163	£154	£9	5.52%
HC 6 Month Renewal	£104	£86	£18	17.31%
PH 12 Month Grant	£140	£103	£37	26.43%
PH 12 Month Renewal	£102	£85	£17	16.67%
PH 6 Month Grant	£98	£69	£29	29.59%
PH 6 Month Renewal	£69	£51	£18	26.09%

a. The Officer's Report to the Committee of 9 February 2016, Appendix A (Appendix 1, page 18) states: -

"The Hackney Carriage and Private Hire vehicle 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. The toolkit is utilised by many other local authorities"

From the internet I have learnt that the purpose of the "Wales Licensing Expert Panel" "is to coordinate an effective approach to the administration, processes and enforcement of licensing and other relevant legislation within Wales, in accordance with the principals of proportionality, consistency, targeting and transparency. This group was developed by "Local Authorities in Wales concerned that existing fees may not withstand legal challenge."

- a. Please provide a detailed list of the individuals who developed the "Fees Toolkit" and their qualifications.
- b. Please provide the detailed calculations generated by the "Fees Toolkit" and details of all the expenditure input to generate the proposed fees.
- c. Please provide the application numbers and income received for the financial year 2014/15 as previously requested in my email to Mr Lane and Ms Hartrey of 1 February 2016.
- d. Please provide the approved structure and cost of the Licensing function of Cardiff Council: -
 - i. As at 26 March 2013
 - ii. As at 9 February 2016 following restructure.
- e. Please provide an explanation for the proposed disproportionate reduction in Hackney Carriage 12 month renewal fees.
- f. It appears from the Council's website that a "SUMMARY OF GENERAL LICENSING ACTIVITIES" has not been presented to the Public Protection Committee for the financial years 2012/13, 2013/14 or 2014/15; please provide these performance indicators.

It is wholly unreasonable for the Members of the Public Protection Committee and the Trade to be asked to accept the Officer's calculations at face value without being given the opportunity to analyse and compare the detailed items of expenditure.

2. The Legality of 6 month vehicle licenses for Hackney Carriage Vehicles. I draw your attention to the legislation detailed below and assert that a Hackney Carriage Vehicle Licence must be "**in force for one year only**". I assert that the Council is not entitled to issue a Hackney Carriage vehicle licence for any period less than one year.

- a. Town Police Clauses Act 1847, s43: -

"Licence to be in force for one year only.

Every licence so to be granted shall be under the common seal of the commissioners, if incorporated, or, if not incorporated, shall be signed by two or more of the commissioners, and shall not include more than one carriage so licensed, and shall be in force for one year only from the day of the date of such licence, or until the next general licensing meeting, In case any general licensing day be appointed by the commissioners."

- b. The Transport Act 1981, s35: -

35 Charges for licensing of cabs and cab drivers.

...**(3)Where section 70 of the Local Government (Miscellaneous Provisions) Act 1976 (fees for vehicle and operator's licences) is not in force in the area of a district council, the sums to be paid for a licence granted by the council under section 37 of the Town Police Clauses Act 1847 (licensing of cabs outside London) shall be such as the council may determine, and different sums may be so determined with respect to different descriptions of vehicle ; and the sums so determined shall be such as appear to the council to 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 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."

Section 70 of the LGMP Act 1976 is "in force" and Cardiff Council cannot therefore lawfully apply "different sums ... to different descriptions of vehicle"?

c. Road Traffic Act 1988, Part II CONSTRUCTION AND USE OF VEHICLES AND EQUIPMENT:

"45. (1) ... (a) the prescribed statutory requirements relating to the construction and condition of motor vehicles or their accessories or equipment, ...
(2) The Secretary of State may by regulations make provision—
(a) for the examination of vehicles ...
(3) Examinations for the purposes of this section shall be carried out by—
(a) persons, ... authorised for those purposes by the Secretary of State ..."

"46. (1) Regulations under section 45 of this Act may, in particular, make provision as to— ...

"... (d) the manner in which, conditions under which and apparatus with which examinations are carried out
(f) the manner in which applications may be made for the examination of vehicles under section 45 of this Act, the manner in which and time within which appeals may be brought under subsection (4) of that section ...
... (j) the charges to be paid by authorised examiners or designated councils to the Secretary of State in connection with—
(i) the issue of test certificates"

"...47. Obligatory test certificates...

(1) ... In this section and section 48 of this Act, the "appropriate period" means a period of twelve months or such shorter period as may be prescribed.
(2) Subject to subsections (3) and (5) below, the motor vehicles to which this section applies at any time are
(3) ... (b) a taxi (as defined in section 64(3) of the Transport Act 1980), being a vehicle licensed to ply for hire."

Please find attached The Town Police Clauses Act 1847 in its current revised form together with annotations and modification effecting each section of the Act.

- d. Please find attached *The King v Weymouth Borough Council. Ex parte Teletax* (Wwymouth [1947] K.B. 583 a Judgment handed down almost 60 years after the enactment of the Town Police Clauses Act 1889. I draw your attention to the following point from Lord Goddard's Judgement: -

*"...What then is the effect of these sections? In my opinion, they clearly show that the licence is granted to the carriage, *591 and that that licence remains in force for a year from the time when it is granted..."*

From the footnote to the Judgement: -

"1. Town Police Clauses Act, 1847. Section 37 : "The Commissioners may from time to time license to ply for hire within the prescribed distance, or if no distance is prescribed, within five miles from the General Post Office of the city, town, or place to which the special Act refers (which in that case shall be deemed the prescribed distance) such number of hackney coaches or carriages of any kind or description adapted to the carriage of persons as they think fit." Section 41 : "In every such licence shall be specified the name and surname and place of abode of every person who is a proprietor or part proprietor of the hackney carriage in respect of which such licence is granted." Section 43 . [Licence to be in force for one year only.] Section 46 [Drivers not to act without first obtaining a licence.] Section 50 . "The Commissioners may, upon the conviction for the second time of the proprietor or driver of any such hackney carriage for any offence under the provisions of this or the special Act with respect to hackney carriages suspend or revoke, as they deem right, the licence of any such proprietor, or driver." ..."

Lord Goddard's opinion clearly supports my view that a Hackney Carriage vehicle licence must be for a period of one year.

- e. Department For Transport "*Taxi and Private Hire Vehicle Licensing: Best Practice Guidance*", from section 32: -

"Age Limits. It is perfectly possible for an older vehicle to be in good condition. So the setting of an age limit beyond which a local authority will not license vehicles may be arbitrary and inappropriate. But a greater frequency of testing may be appropriate for older vehicles - for example, twice-yearly tests for vehicles more than five years old."

The Department For Transport suggest "*a greater frequency of testing*" **not** a lesser period of licence duration.

Yours sincerely



Sharyn Donnachie

Director Primeoutlet Ltd

Status: Positive or Neutral Judicial Treatment



***583 The King v WEYMOUTH BOROUGH COUNCIL. Ex parte
TELETAX (WEYMOUTH), LIMITED.**

Divisional Court

16 April 1947

[1947] K.B. 583

Lord Goddard C.J. , Atkinson and Oliver JJ.

1947 April 16.

Licensing—Hackney carriage—Purchase by applicants of licensed taxicabs—Refusal of local licensing authority to transfer licences to new owners of issue new licences to them—Mandamus— Town Police Clauses Act, 1847 (10 & 11 Vict., c. 89), s. 37.

A licence issued under s. 37 of the Town Police Clauses Act, 1847, by a local licensing authority, for a hackney carriage to ply for hire within the area of the authority, is a licence for the vehicle and not to the proprietor thereof, and if any change of ownership takes *584 place during the licensing year the new proprietor is entitled to have his name and address substituted for the name and address of the former owner in the authority's register of licences, and on the licence itself.

APPLICATION for order of mandamus.

The applicants, Teletax (Weymouth), Ltd., are a limited liability company, which on May 29, 1946, was incorporated for the purpose (inter alia) of operating a taxi-cab service in the borough of Weymouth. In July, 1946, the company purchased five taxi-cabs which were already in use in the borough and which had been duly licensed by the respondents, the Town Council of Weymouth, as the licensing authority, under the Town Police Clauses Act, 1847, to ply for hire as hackney carriages within the borough. The company applied for the transfer of the licences of the five vehicles to itself, but the council, on the recommendation of the watch committee, refused. Considerable negotiations followed, but the council adhered to its decision and the applicants now asked for an order of mandamus directed to the council to hear and determine their application according to law, and to give effect to the change of ownership of the five vehicles by amendment of the licences and the council's register of licences, or, alternatively, by the issue of new licences in the name of the applicants.

During the hearing counsel for the applicants read a transcript of a shorthand note, taken by a member of the Press, of the proceedings at the meetings of the council at which the requisition for the transfer of the licences was refused, from which it appeared that two councillors, who admitted that they were interested in the running of taxi-cabs within the borough, had nevertheless spoken in favour of the refusal and indicated their willingness to "take over" the taxi-cabs in question. They had further used language which, counsel suggested, insinuated that the applicants were Jews and undesirable characters. The applicants therefore claimed that the proceedings of the council were vitiated by prejudice.

An affidavit sworn by the Town Clerk of Weymouth stated that: "It has since the conclusion of the war been the intention of the council to safeguard the interests of returning ex-servicemen, for many of whom the running of a taxi-cab is one of the few employments for which their war-time service has left them fit and capable. Both before and after *585 the application by Teletax on June 21, 1946, the council received applications from a number of such men for the grant of licences, and their names were placed on a waiting list pending a vacancy"

J. T. Molony for applicants. By s. 37 of the Town Police Clauses Act, 1847 ¹ the

Weymouth Borough Council are empowered to licence such number of hackney carriages as they think fit, to ply for hire in their area, and they have fixed the maximum number as sixty. The council are also required by s. 41² to keep a register of the names and addresses of the proprietors of the licensed carriages. The discretion given to the council is mainly as to the number of vehicles necessary, in the interest of the public, to serve the area. Section 50³ provides for the suspension or revocation of a licence on the conviction for the second time of the proprietor or driver for any offence under the Act, but no provision is made for withdrawing the licence if there is a change of ownership of the vehicle. It is therefore reasonable to imply that there is power to transfer during the currency of the licence. The question of number does not arise, because it has been determined and the vehicles now owned by the applicants are included in the number deemed by the council to be necessary. The only question is whether the person putting himself forward as the new owner is entitled to be registered as such. The present motion asks for *586 an order of mandamus to determine the issue according to law, but it also gives the council the alternative either to transfer the existing licences to Teletax (Weymouth), Ltd., or to issue new licences in the name of Teletax (Weymouth), Ltd. The reports of the proceedings before the council indicate clearly that prejudice was introduced by councillors who, being pecuniarily interested, spoke at length in favour of the refusal to transfer. The reason that there was a waiting list of ex-servicemen was not put forward at the time of refusal, but much later.

[Lord Goddard C.J. I think you must argue that being a bona fide purchaser of the vehicles you are entitled to a transfer. Supposing the holder of a licence dies: someone must be entitled to carry on the licence and use the vehicle. Are your clients not in this difficulty, that all the licences expire on April 30, and you might not get a renewal?]

I have to face that fact, but although the council can review de novo at the end of the licence year, the fact that the applicants are on the register would weigh a good deal. It is my submission that the licence is transferable as a matter of public interest.

[Lord Goddard C.J. The cab has to be licensed and the owner thereof has to be registered. You must show that X.Y. can compel the council to register him as the transferee although there are other persons wanting licences. The fact that the council have taken into consideration all sorts of irrelevant considerations is immaterial, because they were only asked to transfer.]

I submit that it is the carriage which has to be licensed and not the owner. The owner has to be registered, and if I become by purchase the proprietor of a licensed hackney carriage I am entitled to be registered as such.

[Lord Goddard C.J. On the other hand in the case of the driver it is the person who is licensed: see s. 46 .]

Vernon Gattie for respondents. In the particular circumstances the court will only grant mandamus if the obligation on the council is to give effect to the change of ownership by recording the change in the register and altering the licence. If the licence applies only to the vehicle I cannot dispute that obligation, but in my submission licences granted under the Act are not merely licences of the vehicle but must be taken to be personal licences. The form in which the licences in question are drawn up is not, I admit, a statutory form. *587 It is based on the form given in the Encyclopædia of Forms and Precedents. It is not a licence which is attached to any particular vehicle, because the driver, who gets it, has to hand it to the proprietor, who has to keep it, but to hand it back to the driver if he leaves the proprietor's employment.

[Lord Goddard C.J. Section 41 seems to be very much against you. It emphasizes that the licence is granted for the vehicle and not to the proprietor.]

If that were so then the day after the grant of a licence the proprietor could dispose of the vehicle to any one and the council would be bound to give effect to the change. It is to be noted that s. 50 speaks of suspending or revoking "the licence of any such proprietor" and not "the licence of the carriage." If the court takes the view that the

licence is peculiar to the vehicle and that any change of ownership has automatically to be given effect to, I cannot argue that mandamus does not lie. In the circumstances it is unnecessary to deal with the question whether the council proceedings were vitiated, but I would add that I am not instructed to justify the remarks of the two councillors which have been referred to.

LORD GODDARD C.J.

In my opinion this mandamus must go. The question that is raised is one of considerable importance to local authorities who are entrusted with the duty of granting licences in respect of hackney carriages, under the Town Police Clauses Act, and it raises a question which apparently has never yet been the subject of a decision in this court. The material facts are very few and can be stated in few words. Some time in the summer of 1946, the company that moves for this mandamus, a company called Teletax, Ltd., acquired five taxi-cabs from different persons in the borough of Weymouth, which taxi-cabs at that time were licensed, and had been licensed at the general licensing meeting held for that purpose by the corporation of Weymouth, for one year. Those licences were current and would not expire until April 30 of this year. Having acquired those taxi-cabs, they applied to the town council for the licences which had been granted in respect of those taxi-cabs to be transferred to them; and I think it is only fair to the council to say that it may very likely be that the use of the word "transferred" caused and led to a good deal of the confusion which I am satisfied has occurred in this case.

The matter was the subject of several debates. In the first *588 place, the watch committee, to whom these applications go in the first instance, reported to the council against the application, and the council affirmed the watch committee. At a later date, the watch committee appear to have reconsidered the matter and to have advised that licences should be issued to Teletax, Ltd., but the council refused to adopt the recommendation of the watch committee and refused the application; but there is no doubt that, although it comes rather at a late stage, the precise nature of the application which the company desired to make was put forward in a letter from the company's solicitors, dated December, 16, 1946, saying: "We think it well, therefore, for you to know that our clients' counsel advised that your council under the Town Police Clauses Act, 1847, are bound by necessary implication to consider and give effect to changes in owners of licensed vehicles, and that mandamus will lie to compel them so to act and to exclude irrelevant matters from their consideration."

When the application for leave to move for the order was made, the relief that was claimed was "an order for mandamus to the Weymouth borough council to hear and determine according to law the application of the applicants to recognize and give effect to the change of ownership of the said five hackney carriages, by amendment of the licences and the council's register of licences, or alternatively, the issue of new licences in the name of the applicants."

The matter really depends on the true construction of certain sections in the Town Police Clauses Act of 1847, for it is under that Act that local authorities grant hackney carriage licences. Really, the sole question in the case, in my opinion, is whether or not the licences which are granted in these cases are granted in respect of cabs, or whether they are granted in respect of proprietors of cabs. We are not concerned here with driving licences. We are simply concerned here with the licensing of a particular vehicle to be on the road for the purpose of plying for hire within the district of the local authority; and before that can be done a licence must be obtained, no matter who the driver is, and whether the driver is a licensed driver or not, because by s. 46 the licensing of drivers is with regard to the driving of licensed cabs.

His Lordship then read s. 37 of the Act of 1847 and continued: That seems to be a reasonably clear section, and if we give it the ordinary meaning which the English language bears, it is quite clear that the commissioners are to license a *589 vehicle as a hackney carriage. It also seems reasonably clear that what Parliament had in mind was that it was desirable that the commissioners should be able to control the number of carriages which plied for hire in a given area, and should also be entitled to prescribe the kind and the

description of the carriages. No doubt it would give the local authority power to refuse to grant a licence if they thought that the construction of the cab, to use the common expression, was not satisfactory. I have no doubt they could take that matter into consideration, and certainly could take into consideration the number of cabs which were already licensed, so that there would not be an undue number or, on the other hand, if they found there were not enough for the reasonable requirements of the public, they would be able to license more from time to time as they thought fit.

I do not think I need read s. 38 in detail, because that is merely saying what vehicles are to be considered hackney carriages. Then s. 40 provides that before any such licence is granted, a requisition for the same, in such form as the commissioners from time to time provide for that purpose, shall be made and signed by the proprietor or one of the proprietors of the hackney carriage in respect of which such licence is applied for. Observe here that there is no direction in this section that the proprietor has to make an application for a licence for himself. He is to fill in a requisition, and the requisition is to be signed by the proprietor of the hackney carriage in respect of which such licence is applied for. That, again, appears to show that it is the vehicle which is licensed, and not the person owning the vehicle. Then, "and in every such requisition shall be truly stated the name and surname and place of abode of the person applying for such licence, and of every proprietor or part proprietor of such carriage, or person concerned, either solely or in partnership with any other person, in the keeping, employing, or letting to hire of such carriage." Then there is a penalty of 10l. if untrue statements are made. Section 41 seems to me to be also of considerable importance. It provides that in every such licence shall be specified the name and surname and place of abode of every person who is a proprietor or part proprietor of the hackney carriage in respect of which such licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing, or letting to hire of any such carriage, and also the number of such licence, which *590 shall correspond with the number to be painted or marked on the plates to be fixed on such carriage, together with such other particulars as the commissioners think fit. There, again, there is a clear statement in the section that it is the hackney carriage that is licensed. It would have been perfectly simple in that section, as indeed in s. 37, or in any other section of this part of this Act, to refer to the licensing of the proprietor to keep a particular carriage, if Parliament had so intended. They seem to have emphasized in the sections I have already read that the licensing is the licensing of a carriage, and not of any particular person.

Then there is a provision that every licence shall be made out by the clerk of the commissioners, and duly entered in a book to be provided by him for that purpose, and in such book shall be contained columns or places for entries to be made of every offence committed by any proprietor or driver or person attending such carriage; and any person may at any reasonable time inspect such book without fee or reward. The object of that would seem to be clear; it gives the public a right to inspect the register of hackney carriages, which must state who the proprietor is, so that if the public have reason to bring an action for personal injury or otherwise, they may see who the proprietor is who can be sued. There is a further provision that every licence shall be in force for one year only from the day of the date of such licence, or until the next general licensing meeting, in case any general licensing day be appointed by the commissioners, and also one in s. 44 that notice shall be given by the proprietors of hackney carriages of any change of abode.

Then I think s. 45, ought to be noted: "If the proprietor or part proprietor of any carriage, or any person so concerned as aforesaid, permits the same to be used as a hackney carriage plying for hire within the prescribed distance without having obtained a licence as aforesaid for such carriage, he shall be liable to a penalty." Contrast the sections I have read with s. 46, which says:- "No person shall act as driver of any hackney carriage licensed in pursuance of this or the special Act to ply for hire within the prescribed distance without first obtaining a licence from the commissioners." There you get the clear words which show that, with respect to the driver, it is the driver who is to be licensed.

What then is the effect of these sections? In my opinion, they clearly show that the licence is granted to the carriage, *591 and that that licence remains in force for a year from the

time when it is granted, or until the next annual licensing meeting of the commissioners, if they appoint a date before the annual granting of these licences. What then is to happen if during that year a change of proprietorship takes place? There is the vehicle; it has its licence attached to it. There is nothing in this Act which says that the vehicle may not be sold, or may only be sold with the consent of the council. There is no provision here to say that if a person has obtained a licence for a cab and disposes of it, or dies, that he or his personal representatives must surrender the licence. What is necessary is that the register should be kept in order and kept up to date. Therefore, it seems to me that, by necessary implication, a person who buys a cab which has been licensed is under a duty to go to the authority and say: "I am now the proprietor of this cab which you licensed for a year; please therefore enter me in the register as the proprietor, and substitute my name on the licence granted in respect of the cab, in the place of the name of the earlier proprietor."

We are not concerned here to consider whether or not Parliament might have made different provisions. Parliament seems to have said that a licence to a cab, if the commissioners grant it, is to be given for a year. I cannot think it was meant, and I think the necessary implication is the other way, that if that cab is sold during the year, the proprietor who buys the cab is never to be allowed to use the cab during the year. Of course, he takes his chance that he may not get his licence renewed, but that raises entirely different questions. Once the licence expires, as it will do, at the end of the year, then he will have to apply, and he will have to put in a requisition in respect of the cab which he wishes to use as a hackney carriage.

In my opinion the council have viewed this matter from a wrong angle. One of the councillors, I noticed, did raise this question in an acute form at one of the meetings. He said he wanted to be advised whether the licence was to the cab or the man with the cab. Had it been pointed out then, or had this court given a decision then, that the licence attached to the cab and not to the man, I think it is quite possible that the council might have come to a different conclusion. I think also the council had probably been misled to some extent by the form of the licence which they had been in the habit of issuing, and which we are told is borrowed from a publication called *592 Encyclopædia of Forms and Precedents (vol. 12, 2nd ed., p. 528). It is to be noted that the section in the Statute does not prescribe any particular form of licence, nor, indeed, does it prescribe any particular form of requisition for a licence. In fact, the precedent for a licence of this sort given in the Encyclopædia is perfectly correct: it is in form a licence for a vehicle and not a personal licence, and it would be well if that form were used in future. Section 40, as I have already said, provides that the requisition is to be in such form as the commissioners shall from time to time provide for that purpose, but the form of licence which is used in the Borough of Weymouth reads in this way: "We, the Mayor," and so forth, "of the Borough of Weymouth and Melcombe Regis, in the County of Dorset, by virtue of the provisions in that behalf of the Public Health Act, 1875, and all other powers enabling us in that behalf do hereby licence (blank) of Weymouth, the owner of the hackney carriage numbered (blank) to stand and ply for hire with said carriage, within the said borough, subject to the provisions of the said Acts, and to such by-laws relating to hackney carriages as are, or may from time to time be, in force in the said Borough." What the Act seems to require is a licence for a hackney carriage. Once that licence is granted, then the hackney carriage may stand and ply for hire in any street. We are also told in a note to the publication to which I have referred: "This licence is not transferable." Merely stated in that way, I think it is right. If a licence is granted in respect of cab A it cannot be transferred to cab B; that is clear; but what we have to consider is a different matter, and that is whether or not, when cab A, which has been licensed, is sold to another owner, that other owner is entitled to have his name substituted for that of the previous owner and, in my opinion, he clearly is.

Certain other questions have been raised by Mr. Molony in support of his application for a rule. It is said here that the mandamus ought to go because persons took part in the debate - although they did not vote - who were interested parties. The court does not propose to give any decision on that point, as to how far the mere fact that they were interested and took part in the debate would vitiate a decision of the council if it were otherwise

unobjectionable, because we have already said enough to decide this case on different lines. But I think it is desirable that the councillors of the borough of Weymouth should be reminded of the express words of *593 s. 76 of the Local Government Act of 1933⁴. The court observes with concern that two members who did disclose that they had an interest, in that they were or at least desired to be competing owners of taxi-cabs, nevertheless took part in this discussion, one of them, a person called Councillor Bell, taking a very prominent part in this discussion and using arguments and language which we can only say should be strongly deprecated. To bring any charges against the persons concerned in this company in the language in which they did is a matter for which any councillor should be severely reprimanded. I am speaking for myself only at the moment, and I can only hope that some attention will be called to this matter and that councillors will refrain, in the discharge of responsible public duties, from making use of arguments which in this country would be regarded as really, I think I may use the word, reprehensible. I am glad to see that the Mayor did say that one of these members had disclosed his interest, quite properly, and that he should not take part in the debate. I can only say that it is a pity that that councillor did not obey the ruling of the Mayor, but continued to carry on the debate by the well-known device of asking questions, instead of making a speech.

The result is that the order of mandamus will go in accordance with the terms of the notice of motion and with the usual results as to costs.

ATKINSON J.

I agree with what has been said by the Lord Chief Justice, and there would be no object in repeating what he has said. There is one consideration, however, which I think assists the applicants here, and that is the position of the proprietor who has sold his hackney carriage. He must be entitled to have his name removed from the register, and to have his name removed from the licence which has been granted. If he gave notice to the commissioners, similar to the notice required by s. 44, I should have thought that if they refused to remove his name from the register, he could *594 come here for mandamus to make them do so. This seems to indicate that the council must be bound to take notice of changes of ownership and to keep their register accurate in accordance with the true position. If the old proprietor has a right to have his name removed, I should have thought it was equally clear that the new proprietor has a right to have his name inserted in place of that of the old proprietor.

OLIVER J.

I agree with every word that has fallen from my Lords. I only wish to add that I am in the fullest agreement with the strictures which have been passed on the behaviour of two of the councillors concerned in the debate, one of them, in particular, a man openly interested and openly advocating his own financial interest in the debate upon a public matter. I fully agree with every word of censure that has been passed, and I was glad to observe that Mr. Gattie, who argued the case for the council, identified himself with that view.

Representation

Solicitors for applicants: Brash, Wheeler, Chambers, Davies & Co. , for Glanvilles, Portsmouth. Solicitors for respondents: Sharpe, Pritchard & Co. , for Percy Smallman, Town Clerk, Weymouth.

Mandamus granted. (A. W. G.)



1. Town Police Clauses Act, 1847. Section 37 : "The Commissioners may from time to time license to ply for hire within the prescribed distance, or if no distance is prescribed, within five miles from the General Post Office of the city, town, or place to which the special Act refers (which in that case shall be deemed the prescribed distance) such number of hackney coaches or carriages of any kind or description adapted to the carriage of persons as they think fit." Section 41 : "In every such licence shall be specified the name and surname and place of abode of every person who is a proprietor or part proprietor of the hackney carriage in respect of which such licence is granted." Section 43 . [Licence to be in force for one year only.] Section

46 [Drivers not to act without first obtaining a licence.] Section 50. "The Commissioners may, upon the conviction for the second time of the proprietor or driver of any such hackney carriage for any offence under the provisions of this or the special Act with respect to hackney carriages suspend or revoke, as they deem right, the licence of any such proprietor, or driver."

2. Town Police Clauses Act, 1847. Section 37: "The Commissioners may from time to time license to ply for hire within the prescribed distance, or if no distance is prescribed, within five miles from the General Post Office of the city, town, or place to which the special Act refers (which in that case shall be deemed the prescribed distance) such number of hackney coaches or carriages of any kind or description adapted to the carriage of persons as they think fit." Section 41: "In every such licence shall be specified the name and surname and place of abode of every person who is a proprietor or part proprietor of the hackney carriage in respect of which such licence is granted." Section 43. [Licence to be in force for one year only.] Section 46 [Drivers not to act without first obtaining a licence.] Section 50. "The Commissioners may, upon the conviction for the second time of the proprietor or driver of any such hackney carriage for any offence under the provisions of this or the special Act with respect to hackney carriages suspend or revoke, as they deem right, the licence of any such proprietor, or driver."

3. Town Police Clauses Act, 1847. Section 37: "The Commissioners may from time to time license to ply for hire within the prescribed distance, or if no distance is prescribed, within five miles from the General Post Office of the city, town, or place to which the special Act refers (which in that case shall be deemed the prescribed distance) such number of hackney coaches or carriages of any kind or description adapted to the carriage of persons as they think fit." Section 41: "In every such licence shall be specified the name and surname and place of abode of every person who is a proprietor or part proprietor of the hackney carriage in respect of which such licence is granted." Section 43. [Licence to be in force for one year only.] Section 46 [Drivers not to act without first obtaining a licence.] Section 50. "The Commissioners may, upon the conviction for the second time of the proprietor or driver of any such hackney carriage for any offence under the provisions of this or the special Act with respect to hackney carriages suspend or revoke, as they deem right, the licence of any such proprietor, or driver."

4. *593 Local Government Act, 1933, s. 76: "If a member of a local authority has any pecuniary interests direct or indirect, in any contract or proposed contract or other matter, and is present at a meeting of the local authority at which the contract or other matter is the subject of consideration, he shall at the meeting as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or other matter."

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Westlaw

Normal objection to the variation of Hookney Licence +
Private Hire Vehicle Licensing Fees - 17 March 2016

Appendix 2

	HC	PH Grant	PH Renewal
Total apps	1106	248	1153
Annual cars %	55%	23%	23%
6 mth cars %	45%	77%	77%
Annual licences	420	32	150
6 mth licences	686	216	1,003
	<u>1,106</u>	<u>248</u>	<u>1,153</u>



Staff Admin	89,111
Enforcement	93,852
Committee	4,084
Marshals	165,000
Materials	26,219
	<u>378,266</u>

Other Expenses	106,840
Support Services Con	24,840
Support Services NC	25,000
	<u>156,680</u>

% Overheads	<u>41%</u>
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(3)

	Drivers Grant	Drivers Renewal	HC Grant	HC Renewal	PH Grant	PH Renewal	Operator	Change of Vehicle	Transfer	1st/2nd oral test	3rd oral test	Written test	Knowledge e-test	Replace e-scan badge	Replace badge	Replace plate	Exc Operator, Civ & Trf
Annual Leases Applications 2017	114	1,097	0	420	32	150	33	156	360	145	10	146	25	150	50		3,162
	4%	60%	0%	13%	1%	5%	1%	5%	12%								100%
Staff Admin Costs	59,296	21,544	17,005	11,966	17,005	11,537	17,599	18,226	15,844	2,459	3,003	19,114	9,544	4,766	3,376		
Enforcement Officer Costs			72,000	72,000	49,200	49,116	29,098			27,539	47,919						
Committee Costs	14,539	0,865	0,337	0,537	0,239	0,229											
Team Materials			216,235	216,235													
Materials	3,778	3,778	7,117	7,117	7,117	7,117	19,333	7,966	6,356							1,899	7,117
Overheads	31,653	10,844	129,599	127,448	30,553	29,441	19,333	7,966	6,356							2,766	4,539
Total Fee	100,000	37,000	442,000	415,000	104,000	97,000	66,000	76,000	22,000	30,000	51,000	19,000	10,000	5,000	15,000		
Current fee	97,000	89,000	230,000	230,000	230,000	230,000	255,000	0,000	0,000								
Fee increase	11,000	-22,000	212,000	205,000	-126,000	-133,000	-189,000	26,000	22,000								
5 Monthly Leases Applications 2017			0	596	276	1,003											1,905
			0%	38%	17%	53%											100%
Staff Costs			17,005	11,966	17,005	11,937											
Enforcement Officers Costs			36,000	36,000	24,600	24,538											
Committee Costs			0,337	0,337	0,239	0,229											
Team Materials			108,113	108,113													
Materials			7,117	7,117	7,117	7,117											
Overheads			69,889	67,779	20,344	18,223											
Com Support Services Non Com Support Services																	
Total fee	0,000	0,000	219,000	231,000	59,000	62,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	0,000	
Current fee			157,000	157,000	157,000	157,000											
Fee increase			82,000	74,000	-88,000	-85,000											
Check																	
Total Income Annual Income 6 monthly business	12,312	70,189	0	182,700	3,328	14,550	2,178	4,096	8,360	4,350	510	2,774	250	1,360	750		307,657
Less staff costs	6,642	40,853	0	13,233	4,226	13,904	580	2,848	6,019	361	80	2,794	239	714	138		92,535
Enforcement Costs	0	0	0	54,598	6,888	32,026	980	0	0	3,392	4,73	0	0	0	0		99,293
Committee Costs	1,634	1,634	0	408	72	335	0	0	0	0	0	0	0	0	0		4,084
Team materials	0	0	0	165,000	0	7,330	0	0	0	0	0	0	0	0	0		165,000
Materials	431	7,171	0	7,330	1,778	8,267	0	0	0	0	0	0	0	284	359		28,219
Other Expenses	3,906	20,559	0	100,055	5,371	22,547	638	1,180	2,483	0	0	0	0	413	226		157,076
Surplus	-1	-36	0	-378	-107	-244	1	28	-153	-3	1	-20	11	-61	-23		-985

Does not include Regulatory E40K

1,905
100%

Does not include Regulatory E40K

Name	Position	No.	SP	FTE	Annual Cost	Allowances	Driver's Grant FTE Cost	Driver's Renewal FTE Cost	HC Renewal FTE Cost	PH Grant FTE Cost	PH Renewal FTE Cost	Operator FTE Cost	Change of vehicle FTE Cost
Admin													
Claire Hartrey	Group Leader	81496		46	1.0	51,455	0.01	9,074	0.10	5,290	0.02	5,515	0.00
Paul Walters	Senior Licensing Enforcement Officer	31409		40	1.0	44,337	220	9,555	0.02	847	0.03	891	0.00
Kirstie Barker	Senior Licensing Officer (General)	65699		40	1.0	44,337	0.01	2,173	0.00	1,248	0.02	0	0.00
Linda Papadakis	Licensing Admin Support Assistant	50532		19	1.0	23,039	220	2,489	0.00	44	0.00	0	0.01
Catherine Evans	Licensing Admin Support Assistant	78626		18	1.0	22,178	0.02	2,373	0.00	12	0.00	58	0.01
Debbie Reid	Licensing Admin Support Assistant	706779		18	0.5	11,089	0.02	1,777	0.25	11	0.00	55	0.01
Susan Sturge	Licensing Admin Support Assistant	706186		18	0.5	11,089	0.02	2,822	0.13	371	0.14	1,552	0.03
Paul Griffiths	Licensing Assistant General	702929		21	1.0	24,817	0.02	447	0.10	50	0.01	223	0.00
Tracy Lloyd	Licensing Taxi Assistant	81696		21	1.0	24,817	0.02	397	0.25	831	0.14	3,474	0.01
Dave Holland	Head of Service (R&SS)	2297	HOF5	1.0	94,335		0.00	48	0.01	792	0.00	481	0.00
Total							0.21	6,542	1.52	40,853	0.54	13,233	0.16
Number of applications							114	1,897	1,106	4,228	0.57	13,804	0.03
Admin cost / application							58.26	21.54	11.96	248	17.05	580	0.14
												33	156
												17.58	18,26
Enforcement													
Peter Curry	Licensing Enforcement Officer	61370		29	1.0	32,230	5,162	0	0.24	8,974	0.03	5,231	0.03
Francis Pike	Licensing Enforcement Officer	31153		31	1.0	34,419	5,503	0	0.24	9,561	0.03	5,585	0.00
Ilenia Agostini-Green	Licensing Enforcement Officer	81014		28	1.0	30,971	4,965	0	0.24	8,625	0.03	5,028	0.00
Natalie Searle	Licensing Enforcement Officer	42493		31	1.0	34,419	5,503	0	0.24	9,561	0.03	5,585	0.00
Ruth Luke	Licensing Enforcement Officer	713761		29	1.0	26,340	4,595	0	0.24	7,424	0.03	4,328	0.00
Timothy Haughton	Licensing Enforcement Officer	69244		31	1.0	34,419	5,503	0	0.24	9,561	0.03	5,585	0.00
Overtime						2,000	0.00	0	0.59	1,171	0.07	682	0.00
								54,938		0,888		32,025	960

* Have not included 1% pay award
 ** Allowances comprises 10% shift allowance, first aid allowance, and enhancements for weekend (50%) and night (20%) working.



1st/2nd oral test		3rd oral test		Written test		Test Cancelled		Replace badge		Replace license		Replace plate		Transfer		Total	
FTE	Cost	FTE	Cost	FTE	Cost	FTE	Cost	FTE	Cost	FTE	Cost	FTE	Cost	FTE	Cost	FTE	Cost
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0.42	21,611
0.00	134	0.00	0	0	0	0	0	0	0	0	0	0	0	0.37	16,405		
	0	0	0	0	0	0	0	0	0	0	0	0	0	0.08	3,724		
0.01	116	0.00	12	0.06	1,430	0.01	122	0.01	209	0	0	0	0	0.24	5,565		
0.01	111	0.00	11	0.06	1,364	0.01	116	0.01	200	0	0	0	0	0.24	5,306		
	0	0	0	0	0	0	0	0.01	72	0	0.00	44	0.08	0.71	7,851		
	0	0	0	0	0	0	0	0.01	72	0	0.00	44	0.08	0.71	7,851		
	0	0	0	0	0	0	0	0	0	0	0	0	0.04	0.19	4,765		
	0	0	0	0	0	0	0	0.01	161	0	0.00	55	0.06	0.71	17,570		
	0	0	0	0	0	0	0	0	0	0	0	0	0.00	0.02	1,887		
0.01	361	0.00	30	0.12	2,794	0.01	239	0.04	714	0.00	0	0.01	188	0.32	6,019	3.89	92,535
	145		10		146		25		150		1		50		360		
	2,49		3,03		19,14		9,54		4,76		0,00		3,76		16,54		

0.10	3,992	0.01	479													0.44	16,250
																0.41	16,368
																0.41	14,734
																0.41	20,839
																0.41	12,683
																0.41	16,368
																2,000	
																99,283	

(5)

	Annual Cost	Hourly Rate	Public Protection Committee Cost
Committee Chair (60% on taxis)	8,735		2,096
Committee Administration	34,182	17.72	1,148
Committee Room Hire			431
Committee Postage			21
Committee Agenda Production			389
			<u>4,084</u>

* The Committee Chair cost is only the additional above the basic allowance

	Drivers Grant	Drivers' Renewal	HC Vehicle	PH Grant	PH Renewal	Replace badge	Replace plate
Annual	3.78	3.78	7.17	7.17	7.17	1.89	7.17
6 Monthly			7.17	7.17	7.17		
Licences:							
Annual	114	1,897	420	32	150	150	50
6 Monthly			686	216	1,003		
Total cost	431	7,171	7,930	1,778	8,267	284	359
							<u>26,219</u>



2011-12	2011-12	2012-13	2012-13	2013-14			
Outturn	Outturn	Outturn	Estimate				
13421	Other Operational Supp G/P	77,730.00	77,858.42	82,120.00	77,788.73	81,070.50	
13314	Other Operational Supp		2,907.23		1,823.50		
13314	Other Operational Supp	17,080.00	18,868.24	10,760.00	17,519.03	20,040.00	
13314	Other Operational Supp	5,810.00	7,898.75	9,380.00	6,203.78	5,360.00	
13314	Other Operational Supp	6,860.00	10,962.48	8,880.00	115.44	8,800.00	
14001	Grants	80,550.00	75,694.01	63,910.00	65,193.01	81,300.00	
14002	Grants		2,090.50		1,371.02		
14003	Grants	17,710.00	14,706.46	10,070.00	17,922.12	20,740.00	
14004	Grants	5,320.00	5,095.27	5,820.00	6,725.03	6,830.00	
14005	Grants		4,906.00		123.72		
14491	Operational Management	6,890.00	10,189.13				
14492	Operational Management	1,300.00	1,304.04				
14493	Operational Management	830.00	1,024.81				
17000	FRS1 earned service costs		20,487.09				
17000	FRS1 earned service costs		38,851.70				
17201	SR Annex Gross Pay	630.00	591.08				
17201	SR Annex Gross Pay	440.00	442.00				
17201	SR Annex Gross Pay	10.00	6.13				
17201	SR Annex Gross Pay				14,115.02		Agency is a one-off and does not need to be included
17201	SR Annex Gross Pay	1,150.00		-1,150.00		-2,300.00	
18077	Adm Costs - Pension	1,240.00	414.76	5,740.00	16,000.75	5,740.00	15,845.99 £15,845.99 relates to pension strain
18077	Adm Costs - Pension		304.17				
18077	Adm Costs - Pension		414.76				
18077	Adm Costs - Pension		373.54				
18082	Adm Expenses & Grants	30.00		30.00		30.00	
18082	Adm Expenses & Grants	50.00	54.81	50.00	50.00	50.00	
18103	Professional Fees		171.50		42.00		
18103	Professional Fees	1,080.00	237.00	1,680.00		1,080.00	
18103	Professional Fees				1,060.73		
18103	Professional Fees	5,400.00	5,399.45				
****	Employment Related	232,270.00	234,501.39	232,000.00	255,707.00	229,810.00	2,000.00
20000	Finance Building Formula Funds						
20010	Security Measures				943.19		
22001	Rents	6,990.00	8,801.84	6,000.00	7,000.00	6,000.00	7,174.24
20100	Security Services				723.34		
****	Premises Related	5,990.00	6,905.81	6,000.00	6,622.63	6,000.00	3,000.00 To cover all other premises spend + £2k for new CCTV
30010	Car/Mail Season Ticket Loans		129.47				
30021	Car Allowance	6,680.00	4,338.82	6,540.00	-45.07	5,400.00	
30024	Travel Expenses		21.80		4.00		
30010	Parking Expenses	1,780.00	1,879.24	1,780.00	319.89	1,780.00	
****	Transport Related	8,340.00	6,099.19	8,340.00	275.62	7,180.00	
40101	Purchase/Repair - Furniture	880.00		800.00		840.00	1,000.00 To cover 40121, 40135, 40137, 40151, 41001, 41000
40121	Purchase/Repair - Furniture		1,631.28		500.00		
40121	Purchase/Repair - Furniture		7,237.78		21,742.43		Costs of materials
40130	Purchase/Repair - Furniture	13,680.00	7,280.04	13,280.00	110.00	13,280.00	Costs of materials
40134	Grants				725.00		Costs of materials
40135	Grants	3,000.00	48.92	2,930.00	69.25	2,930.00	Costs of materials
40137	Grants		34.20		24.00		Costs of materials
40137	Grants				167.00		
41001	Grants		86.30				
41009	Grants		132.72		150.00		
43001	Grants	1,250.00	2,464.34	1,190.00	2,440.00	1,190.00	1,190.00 This outturn includes badge holders which are covered under materials
43022	Grants	600.00		600.00		600.00	Not required for taxis according to CH
43028	Grants		140.44		750.00		750.00
44000	Grants				6,164.00		2,000.00 Every 3 years
44007	Grants	4,990.00	3,408.70	4,990.00	3,500.00	4,990.00	3,850.04
44004	Grants				12.68		
44005	Grants				308.12		600.00 HSBC charges
44006	Grants		1,800.00		40,000.00		20,000.00 Estimate for 13/14 due to challenges
44009	Grants	1,310.00	1,779.27	1,310.00	2,583.98	600.00	
45001	Grants	1,310.00	900.00	970.00	650.00	970.00	600.00
45011	Grants	580.00	3,082.08	580.00	1,200.00	680.00	600.00
45010	Grants	130.00		130.00		130.00	
45018	Grants		83.78		90.07		100.00
46002	Grants		60.00				1,500.00 Based on charges for 11/12 - purchases in 12/13 were a one off
46007	Grants		179.00		2,502.68		33,800.00 Lelipac + database
46017	Grants		757.88		191.43		
46020	Grants	1,780.00	1,778.00				2,000.00
46007	Grants				215.00		
46000	Grants				66.20		
46010	Grants				30,000.00		10,000.00 Revenue cost - every 3 years
46016	Grants		18.00				
47000	Grants		628.57		720.00		720.00
48011	Grants	100.00	103.33	70.00	70.00	70.00	70.00
48016	Grants	140.00	135.51	140.00	140.00	140.00	140.00
48010	Grants		8.45				
48014	Grants		139.76				
****	Supplies & Services	29,810.00	34,339.28	27,030.00	115,570.17	26,320.00	600.00 To cover 46007, 46008, etc
60133	Fixed System Charges		70.00		70.00		
60211	Expenditure - Admin Outings	23,370.00	23,370.00	24,230.00	24,230.00	24,230.00	
60301	Repairs	40,000.00		40,000.00	40,000.00	40,000.00	
63011	IT Services	53,370.00	83,440.00	64,770.00	64,940.00	64,770.00	CH advises that this should not be included. SS Capitalisation repayment over 10 years
61141	Legal Expenses (Non-Cont)	4,480.00	4,124.00				
61142	Legal Expenses (Non-Cont)		20.00				
61141	Legal Expenses (Non-Cont)	7,890.00	7,703.00				
61121	IT Services (Non-Cont)	3,910.00	3,731.00				
61102	Services Accountancy (Non-Cont)	2,800.00	2,388.00				
61100	Services (Non-Cont)	100.00	127.00				
61110	Services (Non-Cont)	130.00	128.00				
61115	Services (Non-Cont)	770.00	738.00				
61110	Services (Non-Cont)	370.00	372.00				
61120	Services (Non-Cont)	160.00	48.00				
61162	Health & Safety (Non-Cont)	210.00	163.00				
61181	Communications (Non-Cont)	570.00	541.00				
****	Support Services Non Controllable	20,730.00	20,094.00	0.00	0.00	0.00	
****	Support Services	84,100.00	83,504.00	64,770.00	64,840.00	64,770.00	
****	Other Expenditure	128,040.00	132,658.28	106,140.00	189,508.52	104,270.10	
****	Expenditure	360,310.00	367,159.86	339,040.00	445,305.52	334,050.00	
72112	Course Fees		2,309.00				
72214	Hackney Carriage Licences	567,430.00	617,282.12	-502,430.00	-627,980.00	-582,430.00	
72216	Sundry Licences		78.00				
72220	Temporary Event Notices		784.50		102.00		
72202	Premises Licences				-7.79		
72020	Telephone Income		55.77		-32.63		
72745	Sundry Charges & Income				33.50		
****	Customer & Client Charges	567,430.00	620,350.39	-562,430.00	-627,884.92	-582,430.00	
73005	Interest & Investment Income		195.58				
73009	Other Income	170.00	195.58	-170.00		-170.00	
****	Interest & Investment Income	170.00		-170.00	0.00	-170.00	
****	External Income	567,600.00	620,350.39	-562,600.00	-627,884.92	-582,600.00	
88762	Commitment Support Services	4,420.00	4,291.31				
89101	Contra-Entry	900.00					
****	Internal Income & Contrals from Reser	3,440.00	4,291.31	0.00	0.00	0.00	
****	Income	559,180.00	616,050.00	-562,600.00	-627,884.92	-582,600.00	
****	Total	198,650.00	248,699.43	-223,560.00	-182,679.40	-223,520.00	106,840.27

(3)

Formal Objection to the variation of Hackney Carriage Private Hire Vehicle Licensing Fees - 17 March 2016

Appendix 1



County Hall
Cardiff,
CF10 4UW
Tel: (029) 2087 2087

Neuadd y Sir
Caerdydd,
CF10 4UW
Ffôn: (029) 2087 2088

FOI Response Document

FOI07969

Thank you for your request under the Freedom of Information Act 2000 about **Hackney Carriage and Private Hire Fees** received on **8th February 2016**.

Request

Hackney Carriage and Private Hire Vehicle Fees – Public Protection Committee – February 2016

Thank you for emailing the Report and Appendix that are to be put before the Public Protection Committee on 9 February 2016. From that report at point 2.2: -

"In the 2014/15 financial year, there was a £9961 surplus in respect of hackney carriage vehicle licences, and a £12,786 surplus in respect of private hire vehicle licences."

1. What was the gross fees income received in respect of all hackney carriage vehicles in Cardiff for the year 2014/15?

a. How much was received from those paying for 6 month licences in the year 2014/15?

b. How much was received from those paying for 12 month licences in the year 2014/15?

2. It seems that Licensing Officers have applied Private Hire vehicle law to Hackney Carriages in Cardiff despite Section 80 of the Local Government Miscellaneous Provisions Act 1976 (The Act of 1976) which states: -

- *the Act of 1847" means the provisions of the M1 Town Police Clauses Act 1847 with respect to hackney carriages*
- **hackney carriage" has the same meaning as in the Act of 1847;**
- *"hackney carriage byelaws" means the byelaws for the time being in force in the controlled district in question relating to hackney carriages...*
- *"public service vehicle" has the same meaning as in [the M4 Public Passenger Vehicles Act 1981]; ...*
- **"vehicle licence" means in relation to a hackney carriage a licence under sections 37 to 45 of the Act of 1847 [in relation to a London cab a licence under section 6 of the Metropolitan Public Carriage Act 1869] and in relation to a private hire vehicle means a licence under section 48 of this Act."**

Under the Act of 1847 a 12 month licence only can be issued for hackney carriages, from Section 43: -

"Licence to be in force for one year only.

The Operational Manager, Improvement and Information, City of Cardiff Council, Room 401, County Hall, CARDIFF, CF10 - 4UW. Telephone: 029 2087 2087 Email: foi@cardiff.gov.uk

You can find out more about the Regulations from the Information Commissioner at Information Commissioner's Office (Wales), 2nd Floor, Churchill House, Churchill Way, Cardiff, CF10 2HH. http://www.ico.org.uk/about_us/our_organisation/wales, Telephone: 029 2067 8400, Fax: 029 2044 8045, Email: Wales@ico.gsi.gov.uk



Every licence so to be granted shall be under the common seal of the commissioners, if incorporated, or, if not incorporated, shall be signed by two or more of the commissioners, and shall not include more than one carriage so licensed, and shall be in force for one year only from the day of the date of such licence, or until the next general licensing meeting, in case any general licensing day be appointed by the commissioners."

Recent research has shown that Bridgend and Newport Councils obey the law at s43; given the recent amalgamation of Regulatory Services, is Cardiff Council now knowingly breaking this law? If so, are the Elected Members aware of this fact?

3. A Private Hire vehicle is not a vehicle regulated by (amongst other things) the penal code of the Bye Laws, the Act of 1847, the Transport Acts, and the Disability Discrimination Acts. A Private Hire vehicle can refuse a fare at any time, is not obligated to use a taxi meter, is not deemed to be plying for hire when standing in any street, does not have to be wheelchair accessible. Outside of London the legal identity of the Private Hire vehicle was created by The Act of 1976, s80 states: -

"private hire vehicle" means a motor vehicle constructed or adapted to seat [F4fewer than nine passengers], other than a hackney carriage or public service vehicle [F5or a London cab][F6or tramcar], which is provided for hire with the services of a driver for the purpose of carrying passengers;

Section 43 of the Act of 1976 for Private Hire vehicles only states: -

"4. Every licence granted under this section shall— ...
(c) remain in force for such period not being longer than one year as the district council may specify in the licence."

In the High Court Proceedings which ended in 2014, Cardiff Council accepted for the first time that there are "two separate and distinct regimes". **Have Cardiff Council Officers confused the different powers that apply under the two different Acts? If so, has the time come to be honest and to make a clean breast of things, before any more disproportionate and unlawful overcharging of fees occurs?**

4. What was the gross fees income received in respect of all private hire vehicles in the year 2014/15?

- a. How much was received from those paying for 6 month licence grants in the year 2014/15?
- b. How much was received from those paying for 12 month licence grants in the year 2014/15?
- c. How much was received from those paying for 6 month licence renewals in the year 2014/15?
- d. How much was received from those paying for 6 month licence renewals in the year 2014/15?

5. Please provided a detailed breakdown of the Costs incurred and how they have been attributed to each of the six types of Licence detailed within the Report.

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6. How much income was received for a) the grant and b) the renewal of hackney carriage driver licences?

7. How much income was received for a) the grant and b) the renewal of private hire driver licences?

8. How much income was received for a) the grant and b) the renewal of private hire operator licences?

9. I detail below a table of the current and proposed fees. The reduction of the Hackney Carriage Vehicle 12 Month renewal fee is disproportionate to the reduction applied to all other fees. Will you please provide a detailed explanation for this anomaly?

	Existing Fee	Proposed Fee	Decrease	Decrease %
HC 12 Month Renewal	£163	£154	£9	5.52%
HC 6 Month Renewal	£104	£86	£18	17.31%
PH 12 Month Grant	£140	£103	£37	26.43%
PH 12 Month Renewal	£102	£85	£17	16.67%
PH 6 Month Grant	£98	£69	£29	29.59%
PH 6 Month Renewal	£69	£51	£18	26.09%

10. Is the cost of investigating and prosecuting bye law offences and summary offences under the penal code of the 1847 TPC Act being attributed to the vehicle licence fee fund, when such costs (of bringing law breakers to the Criminal Courts) should be attributed to the general fund?

We have considered your request and enclose the following information:

Please see the enclosed documents for the figures relating to Taxis, Operators, Hackney Carriage and Private Hire broken down as follows:-

FOI 07969 – Attachment 1 of 4 for Hackney Carriage

FOI 07969 – Attachment 2 of 4 for Taxi Operators

FOI 07969 – Attachment 3 of 4 for Taxi Driver

FOI 07969 – Attachment 4 of 4 for Private Hire

If you have any queries or concerns, please do not hesitate to contact us.

Please remember to quote the reference number above in any future communications.

The Operational Manager, Improvement and Information, City of Cardiff Council, Room 401, County Hall, CARDIFF, CF10 - 4UW. Telephone: 029 2087 2087 Email: foi@cardiff.gov.uk

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3

Plan/Act./Var. w/o EIBV

Status:

05.02.2016

Controlling Area
Profit Center/Group

1000

Cardiff Council
Hackney Carriage Veh

Reporting period

1

12

2014

Profit and loss accounts	Actual
72200 Unallocated Income - Cashflow	904.70
72214 Annual Licences	155.00-
72358 Annual Licence Renewal	98,900.00-
72359 6 Month Licence	196.00-
72360 6 Month Licence Renewal	100,151.00-
72745 Sundry Charges & Income	14,308.00
* External Income	184,189.30-

4

Plan/Act./Var. w/o EIBV

Status:

05.02.2016

Controlling Area

1000

Cardiff Council

Profit Center/Group

Taxi Operators

Reporting period

1

12

2014

Profit and loss accounts	Actual
72214 Annual Licences	7,898.00-
72745 Sundry Charges & Income	
* External Income	7,898.00-

5

Plan/Act./Var. w/o EIBV

Status:

05.02.2016

Controlling Area

1000

Cardiff Council

Profit Center/Group

Taxi Driver

Reporting period

1

12

2014

Profit and loss accounts	Actual
72214 Annual Licences	18,541.00-
72252 Premises Licences	249.00-
72364 DLC Fees	3,025.10-
72369 DBS Income	44,857.74-
72745 Sundry Charges & Income	100,063.80-
* External Income	166,736.64-

6

Plan/Act./Var: w/o EIBV

Status:

05.02.2016

Controlling Area

1000

Cardiff Council

Profit Center/Group

Taxi PHV's

Reporting period

1

12

2014

Profit and loss accounts	Actual
72214 Annual Licences	14,773.00-
72358 Annual Licence Renewal	15,061.00-
72359 6 Month Licence	15,019.00-
72360 6 Month Licence Renewal	87,969.00-
72745 Sundry Charges & Income	5,223.00
* External Income	127,599.00-



CITY OF CARDIFF COUNCIL
LICENCE FEES RELATING TO HACKNEY CARRIAGE AND PRIVATE HIRE
VEHICLES
SECTION 70 LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS)
ACT 1976

TAKE NOTICE that the City of Cardiff Council proposes to vary the fees payable in Cardiff for licences relating to hackney carriages and private hire vehicles in the manner set out in the Schedule below.

The proposed variations are intended to take effect from 1st April 2016 and any objections to the proposals must be made in writing to: Head of Regulatory Services, City Hall, Cathays Park, Cardiff CF10 3ND, or email: licensing@cardiff.gov.uk. All objections must be received within 28 days of the date of this Notice.

A copy of this Notice shall be deposited at the Public Carriage Office, Sloper Road, Cardiff, CF11 8TB for a period of 28 days from the date of this Notice and shall be open to public inspection at all reasonable hours without payment.

SCHEDULE

	Existing Fee	Proposed Fee
Hackney Carriage vehicle 12 month renewal	£163	£154
Hackney Carriage vehicle 6 month renewal	£104	£86
Private Hire vehicle 12 Month Grant	£140	£103
Private Hire vehicle 12 Month Renewal	£102	£85
Private Hire vehicle 6 Month Grant	£98	£69
Private Hire vehicle 6 Month Renewal	£69	£51

Dated: 18 February 2016

Dave Holland,
Head of Regulatory Services

⑧

Sharyn

From: Sharyn
Sent: 05 February 2016 17:59
To: wlane@valeofglamorgan.gov.uk; CHartrey@cardiff.gov.uk; Sharyn
Cc: JackieParry@cardiff.gov.uk; Manzoor.Ahmed@cardiff.gov.uk;
Joe.Boyle@cardiff.gov.uk; ebridges@cardiff.gov.uk; sgoddard@cardiff.gov.uk;
lhudson@cardiff.gov.uk; BKelloway@cardiff.gov.uk; DerrickMorgan@cardiff.gov.uk;
Jim.Murphy@cardiff.gov.uk; Elaine.Simmons@cardiff.gov.uk;
MoWalsh@cardiff.gov.uk
Subject: Hackney Carriage and Private Hire Vehicle Fees - Public Protection Committee - 9
February 2016
Attachments: Hackney Carriage and Private Hire Vehicle Fees - Public Protection Committee - 9
February 2016 (2).docx

In Confidence to Mr Lane / Ms Hartrey / Elected Committee Members 5 February 2016

Hackney Carriage and Private Hire Vehicle Fees - Public Protection Committee - 9 February 2016

1. Thank you for (Mr Lane's) response email of 3 February 2016 at 13:07 hours (below): -

"...I will respond fully on the points you have raised when the answers to your queries have been collated."

2. The Meeting of the Elected Members to decide fees under s70 of the LGMP Act 1976 is due to take place in four days time on 9 February 2016, and among my questions of 1 February 2016 (also below) regarding fees were: -

*"...Under the Act of 1847 a 12 month licence only can be issued for hackney carriages, from Section 43 ... is Cardiff Council now knowingly breaking this law? If so, are the Elected Members aware of this fact?
"two separate and distinct regimes". Have Cardiff Council Officers confused the different powers that apply under the two different Acts? ... disproportionate and unlawful overcharging of fees ..."*

3. My research of today has taken me to essential information that should be in the Officer's Report for four day's time, and is not; s35 of the Transport Act 1981: -

"35 Charges for licensing of cabs and cab drivers.

...1.) Where section 70 of the Local Government (Miscellaneous Provisions) Act 1976 (fees for vehicle and operator's licences), is not in force in the area of a district council, the sums to be paid for a licence granted by the council under section 37 of the Town Police Clauses Act 1847 (licensing of cabs outside London) shall be such as the council may determine, and different sums may be so determined with respect to different descriptions of vehicle; and the sums so determined shall be such as appear to the council to be sufficient to defray the whole or a part -

...1.) the whole or the part of the expenses incurred on behalf of the district council of the carriage of hackney carriages; for the purpose of determining whether any such licence should be granted or renewed;

2.) as regards the cost of providing hackney carriages; and

3.) any reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages."

Section 70 of the LGMP Act 1976 is "in force" and Cardiff Council cannot therefore lawfully apply "different sums ... to different descriptions of vehicle" If it does so in four day's time will Cardiff Council be knowingly breaking the law with the knowledge of the Elected Members?

1. Local Government (Miscellaneous Provisions) Act 1976 (fees for vehicle and operator's licences) - s35 of the Transport Act 1981: -
"35 Charges for licensing of cabs and cab drivers."



Please will advise under what Statute there is a lawful power to demand extra MOT tests for "different descriptions of vehicle", when a vehicle has not even been seen or suspended by any Officer under s68 of the LGMP Act 1976? (My email to you of 15 January 2016 recites s68 in full).

5. The Secretary of State controls and determines how often a taxi needs to be tested, how, where, by whom, and at what maximum cost. With full knowledge of all previous RTA and Transport Acts, full knowledge of the Town Police Clauses Act 1847 (TPC Act 1847 - The Principal Act for Hackney Carriages /Taxis) and the LGMPA 1976 (the Act that gave lawful identity to Private Hire vehicles), Parliament decreed that the Road Worthiness Certificate issued by the Ministry of Transport (now the Vehicle and Operator Services Agency) for a taxi would specifically be for twelve months under s45, s46 and s47 of the RTA 1988. (My email to you of 15 January 2016 refers).

"...47. Obligatory test certificates...

(1) ... In this section and section 48 of this Act, the "appropriate period" means a period of twelve months or such shorter period as may be prescribed.

(2) Subject to subsections (3) and (5) below, the motor vehicles to which this section applies at any time are

(3) ... (b) a taxi (as defined in section 64(3) of the Transport Act 1980), being a vehicle licensed to ply for hire....."

6. S64 (3) of the Transport Act 1980 states: -

"64. Roof-signs on vehicle other than taxis. ...

(3) In this section "taxi" means a vehicle licensed under section 37 of the Town Police Clauses Act 1847, section 6 of the M2 Metropolitan Carriage Act 1869, section 10 of the Civic Government (Scotland) Act 1982] or any similar local enactment."

7. Three years before the RTA 1988, via the Transport Act 1985, Parliament had made the Act of 1847 compulsory / mandatory to all Councils and with it s37 s38 and s43 (below): -

"37. Hackney carriages to be licensed.

The commissioners may from time to time licence to ply for hire within the prescribed distance, or if no distance is prescribed, within five miles from the General Post Office of the city, town, or place to which the special Act refers, (which in that case shall be deemed the prescribed distance,) [such number of hackney coaches or carriages of any kind or description adapted to the carriage of persons [as they think fit].

38. What to be hackney carriages. Proviso as to stage coaches.

Every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street within the prescribed distance, and every carriage standing upon any street within the prescribed distance, having thereon any numbered plate required by this or the special Act to be fixed upon a hackney carriage, or having thereon any plate resembling or intended to resemble any such plate as aforesaid, shall be deemed to be a hackney carriage within the meaning of this Act, and in all proceedings at law or otherwise the term "hackney carriage" shall be sufficient to describe any such carriage.

Provided always that no stage coach used for the purpose of standing or plying for passengers to be carried for hire at separate rates, and duly licensed for that purpose, and having thereon the proper numbered plates required by law to be placed on such stage coaches, shall be deemed to be a hackney carriage within the meaning of this Act.

43. Licence to be in force for one year only.

Every licence so to be granted shall be under the common seal of the commissioners, if incorporated, or, if not incorporated, shall be signed by two or more of the commissioners, and shall not include more than one carriage so licensed and shall be in force for one year only: on the day on the first day of the year in which the licence is granted, the licence shall be deemed to be in force for the whole of that year.

Modifications etc (not altering text)

S. 43 extended by Town Police Clauses Act 1889 (c. 14, SIF 107:1), s. 4(1)(2)

Ss. 37–66, 68 repealed as to public service vehicles by Road Traffic Act 1930 (c. 43, SIF 108), Sch. 5

Ss. 37–65 applied with modifications by S.I. 1986/567, regs 3, 4”

8. In 1986 the Secretary of State issued S.I. 1986/567: -

“Interpretation

2.—(1) In these Regulations—

“the 1847 Act” means the Town Police Clauses Act 1847;

“the 1976 Act” means the Local Government (Miscellaneous Provisions) Act 1976;

“the 1985 Act” means the Transport Act 1985;

“local service” has the meaning given by section 2 of the 1985 Act;

“local taxi area” means the area in which a vehicle is licensed to ply for hire under section 37 of the 1847 Act;

“special licence” means a restricted PSV operator's licence granted by virtue of section 12 of the 1985 Act;

“licensed taxi” and “taxi code” have the meanings given by section 13(3) of the 1985 Act; and

“taximeter” has the meaning given by section 80(1) of the 1976 Act.

(2) Any reference in these Regulations to the 1847 Act is a reference to that Act as it applies in relation to a vehicle as a part of the taxi code (and accordingly as it so applies as incorporated, extended or applied by or under any enactment).”

This Statutory Instrument also made modifications to the TPC Act 1847 and the LGMP Act 1976

9. The use by Parliament of the words “**Every** wheeled carriage, **whatever** may be its form or construction” is emphatic, the deliberate use of the words “**Licence to be in force for one year only. Every** licence so to be granted” is also emphatic. **Will you please identify under what power the Elected Members are being advised to ignore the above laws and charge extra fees for 6 month licences to hackney carriage vehicles (taxis) on 9 February 2016?**

Yours Sincerely

Sharyn Donachie

From: Lane, William [mailto:wlane@valeofglamorgan.gov.uk]

Sent: 03 February 2016 13:07

To: Sharyn

Subject: RE: Hackney Carriage and Private Hire Vehicle Fees - Public Protection Committee - February 2016

Dear Sharyn

Thank you for your e-mail, elements of your enquiry have been logged with our Freedom of Information team and I will respond fully on the points you have raised when the answers to your queries have been collated.

Regards



Will Lane / Operational Manager, Neighbourhood Services
Shared Regulatory Services / Gwasarnethau Pheolladog a Penair

e-mail / e-bost: wlane@valeofglamorgan.gov.uk



From: Sharyn [mailto:Sharyn@capitalcabs.co.uk]

Sent: 01 February 2016 19:31

To: Claire Louise Hartrey; Lane, William; JackieParry@cardiff.gov.uk; Manzoor.Ahmed@cardiff.gov.uk; Joe.Boyle@cardiff.gov.uk; ebridges@cardiff.gov.uk; sgoddard@cardiff.gov.uk; ludson@cardiff.gov.uk; BKelloway@cardiff.gov.uk; DerrickMorgan@cardiff.gov.uk; Jim.Murphy@cardiff.gov.uk; Elaine.Simmons@cardiff.gov.uk

Cc: MoWalsh@cardiff.gov.uk; Sharyn

Subject: Hackney Carriage and Private Hire Vehicle Fees - Public Protection Committee - February 2016

In Confidence to Ms Hartrey / Mr Lane / Elected Committee Members

Hackney Carriage and Private Hire Vehicle Fees – Public Protection Committee – February 2016

Thank you for emailing the Report and Appendix that are to be put before the Public Protection Committee on 9 February 2016. From that report at point 2.2: -

"In the 2014/15 financial year, there was a £9961 surplus in respect of hackney carriage vehicle licences, and a £12,786 surplus in respect of private hire vehicle licences."

1. What was the gross fees income received in respect of all hackney carriage vehicles in Cardiff for the year 2014/15?

- a. How much was received from those paying for 6 month licences in the year 2014/15?
- b. How much was received from those paying for 12 month licences in the year 2014/15?

2. It seems that Licensing Officers have applied Private Hire vehicle law to Hackney Carriages in Cardiff despite Section 80 of the Local Government Miscellaneous Provisions Act 1976 (The Act of 1976) which states: -

- *the Act of 1847" means the provisions of the M1Town Police Clauses Act 1847 with respect to hackney carriages*
- *hackney carriage" has the same meaning as in the Act of 1847;*
- *"hackney carriage byelaws" means the byelaws for the time being in force in the controlled district in question relating to hackney carriages...*
- *"public service vehicle" has the same meaning as in [the M4 Public Passenger Vehicles Act 1981]; ...*
- *"vehicle licence" means in relation to a hackney carriage a licence under sections 37 to 45 of the Act of 1847 [in relation to a London cab a licence under section 6 of the Metropolitan Public Carriage Act 1869]and in relation to a private hire vehicle means a licence under section 48 of this Act."*

Under the Act of 1847 a 12 month licence only can be issued for hackney carriages, from Section 43: -

"Licence to be in force for one year only.

Every licence so to be granted shall be under the common seal of the commissioners, if incorporated, or, if not incorporated, shall be signed by two or more of the commissioners, and shall not include more than one carriage so licensed, and shall be in force for one year only from the day of the date of such licence, or until the next general licensing meeting, in case any general licensing day be appointed by the commissioners."

Recent research has shown that Bridgend and Newport Councils obey the law at s43; given the recent amalgamation of Regulatory Services, is Cardiff Council now knowingly breaking this law? If so, are the Elected Members aware of this fact?

3. A Private Hire vehicle is not a vehicle regulated by (amongst other things) the penal code of the Bye Laws, the Act of 1847, the Transport Acts, and the Disability Discrimination Acts. A Private Hire vehicle can refuse a fare at any time, is not obligated to use a taxi meter, is not deemed to be plying for hire when standing in any street, does not have to be wheelchair accessible. Outside of London the legal identity of the Private Hire vehicle was created by The Act of 1976, s80 states: -

"private hire vehicle" means a motor vehicle constructed or adapted to seat [F4fewer than nine passengers], other than a hackney carriage or public service vehicle [F5or a London cab][F6or tramcar], which is provided for hire with the services of a driver for the purpose of carrying passengers;

Section 43 of the Act of 1976 for Private Hire vehicles only states:

"4. Every licence granted under this section shall— ...

(c) remain in force for such period **not being longer than one year** as the district council may specify in the licence."

In the High Court Proceedings which ended in 2014, Cardiff Council accepted for the first time that there are "two separate and distinct regimes". **Have Cardiff Council Officers confused the different powers that apply under the two different Acts? If so, has the time come to be honest and to make a clean breast of things, before any more disproportionate and unlawful overcharging of fees occurs?**

4. What was the gross fees income received in respect of all private hire vehicles in the year 2014/15?

- How much was received from those paying for 6 month licence grants in the year 2014/15?
- How much was received from those paying for 12 month licence grants in the year 2014/15?
- How much was received from those paying for 6 month licence renewals in the year 2014/15?
- How much was received from those paying for 6 month licence renewals in the year 2014/15?

5. Please provided a detailed breakdown of the Costs incurred and how they have been attributed to each of the six types of Licence detailed within the Report.

6. How much income was received for a) the grant and b) the renewal of hackney carriage driver licences?

7. How much income was received for a) the grant and b) the renewal of private hire driver licences?

8. How much income was received for a) the grant and b) the renewal of private hire operator licences?

9. I detail below a table of the current and proposed fees. The reduction of the Hackney Carriage Vehicle 12 Month renewal fee is disproportionate to the reduction applied to all other fees. Will you please provide a detailed explanation for this anomaly?

	Existing Fee	Proposed Fee	Decrease	Decrease %
HC 12 Month Renewal	£163	£154	£9	5.52%
HC 6 Month Renewal	£104	£86	£18	17.31%
PH 12 Month Grant	£140	£103	£37	26.43%
PH 12 Month Renewal	£102	£85	£17	16.67%
PH 6 Month Grant	£98	£69	£29	29.59%
PH 6 Month Renewal	£69	£51	£18	26.09%

10. Is the cost of investigating and prosecuting bye law offences and summary offences under the penal code of the 1847 TPC Act being attributed to the vehicle licence fee fund, when such costs (of bringing law breakers to the Criminal Courts) should be attributed to the general fund?

Yours Sincerely

Sharyn

From: Hartrey, Claire <CHartrey@cardiff.gov.uk>
Sent: 26 January 2016 18:09
Subject: February Public Protection Committee
Attachments: Hackney and private hire vehicle fees 2016.pdf; Fees Appendix A.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Please see attached report intended for February's Public Protection Committee. Please let me know if you have any comments by Monday 1st Feb 2016.

Kind regards

Claire

Claire Hartrey
Team Manager, Licensing (Cardiff)
Rheolwr Tim, Trwyddedu (Caerdydd)
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Mae'n bosibl bod gwybodaeth gyfrinachol yn y neges hon. Os na chyfeirir y neges atoch chi'n benodol (neu os nad ydych chi'n gyfrifol am drosglwyddo'r neges i'r person a enwir), yna ni chewch gopio na throsglwyddo'r neges. Mewn achos o'r fath, dylech ddinistrio'r neges a hysbysu'r anfonwr drwy e-bost ar

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PUBLIC PROTECTION COMMITTEE: 9 February 2016

Report of the Head of Shared Regulatory Services

HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE LICENCE FEES

1. Background

- 1.1 At its meeting on 4th March 2014 the Committee authorised the introduction of the current fees and charges for hackney carriage and private hire vehicle licences which, after further consideration by the Committee of objections, were implemented on 1st June 2014.
- 1.2 The purpose of this Report is to seek approval of new fees for hackney carriage and private hire vehicle licences.

2. Proposed Fees.

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

	Existing Fee	Proposed Fee
Hackney Carriage 12 month renewal	£163	£154
Hackney Carriage 6 month renewal	£104	£86
Private Hire 12 Month Grant	£140	£103
Private Hire 12 Month Renewal	£102	£85
Private Hire 6 Month Grant	£98	£69
Private Hire 6 Month Renewal	£69	£51

- 2.2 In the 2014/15 financial year, there was a £9961 surplus in respect of hackney carriage vehicle licences, and a £12,786 surplus in respect of private hire vehicle licences. In calculating the proposed new fees, the full surpluses have been taken into account.

No costs have been included in the proposed fees in relation to the taxi marshal service.

- 2.3 The proposed 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.

3. **Legal Implications**

3.1 Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 allows the Council to charge fees for the grant of licences in respect of hackney carriage and private hire vehicles. The Council must set the fees for these licences on the basis that it only recovers costs which it is entitled statutorily to recover.

In respect of vehicle licences the Act states that the Council may charge such fees as may be sufficient in the aggregate to cover in whole or in part:

- The reasonable cost of inspecting Hackney Carriages and Private Hire vehicles to ascertain whether any such licence should be granted or renewed.
- The reasonable cost of providing Hackney Carriage stands.
- Any reasonable administrative or other costs in connection with the above and with the control and supervision of Hackney Carriages and Private Hire vehicles.

3.2 The Act, which dates from 1976, also states that the fee for vehicle licences shall not exceed £25 or such other sum as the Council may from time to time determine. In the light of current costs, £25 is not seen as a realistic fee.

3.3 Case law has established that when the Council makes a surplus in respect of licence fees it should give account for that the next time that the fees are set; and if it makes a deficit it may also take that into account. The calculations in respect of each type of licence issued by the Council should be kept separate.

3.4 When the Council proposes to set new fees for vehicle licences it is required by Section 70 of the 1976 Act to publish notice of the proposed variation in a local newspaper stating that objections may be made within a period of not less than 28 days. If objections are received and not withdrawn the Council must consider them and set a further date on which the variation shall come into force with or without modifications.

4. **Financial Implications**

The report sets out the proposed fee structure to take effect from 1st April 2016. The method adopted in calculating the fees is shown in Appendix A with all relevant costs having been included.

Should a surplus accrue as part of the final outturn position for 2015/16, this will be taken into account when setting the fees in 2017.

5. Recommendations

- 5.1 That the Committee approve the proposed licence fees outlined in this Report with an implementation date of 1st April 2016.
- 5.2 That the Committee authorise the Head of Shared Regulatory Services to carry out the necessary public notice procedure.
- 5.3 If objections are received within 28 days of the publication of the notice of the proposed changes to the fees, the matter come back before the next appropriate Committee meeting so that any such objections can be considered, modifications be considered, and a new date for the introduction of the variations can be set.

Dave Holland
Head of Shared Regulatory Services

15 January 2016

Background papers: Financial calculations

Appendix A

Calculation Method:

The Hackney Carriage and Private Hire vehicle 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. The toolkit is utilised by many other local authorities.

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.

In respect of hackney carriage vehicle licences, the total costs for additional officer time are £144,613.

In respect of Private Hire vehicle licences the additional costs for officer time are £95,150.

Any other licence specific costs are also applied. For example, in the case of vehicles, the cost of advertising the fees in the paper is applied.

General taxi expenditure is £30726 and comprises of:

Taxi office rent	£7,000
Equipment	£791
Materials/Stationery	£4602
Bank charges	£725
Phone	£1098
ICT	£13046
Internet	£191
Security	£3273

The general taxi expenditure is then apportioned across the licence costs: £8603 is apportioned to hackney carriage vehicle licences, and £10,139 to private hire vehicle licences.

The cost of undertaking additional applications such as vehicle transfers, change of vehicles, and replacement plates is also calculated and added to the specific costs. These additional and specific costs are £32,732 for hackney carriage vehicle licences and £19,083 for private hire vehicle licences

The costs set out above are divided by the total number of relevant applications for 12 month licences to give a cost of £140 for Hackney Carriage vehicle licences and £70 for Private Hire vehicle licences, per application.

The officer time and specific costs for 6 month licences are halved, giving a cost of £70 for hackney carriages and £32 for private hire vehicles, per application.

N.B. (1) there has been an increase of nearly 200 private hire vehicle licence application since the last time the fees were set, which has reduced the total charges for each licence (as the costs are divided by more applications)

(2) In 2014/15, it has been calculated that there was a £9,961 surplus in terms of hackney carriage licence, and surplus of £12,798 in respect of private hire vehicle licences. The Council will take account of these surpluses in full in the new fees;

(3) In reference to expenditure the term 'taxi' refers to both hackney carriage and private hire vehicles

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 hackney carriage vehicle licence renewal:
£154**

**Cost of 6 month hackney carriage vehicle licence renewal:
£86**

**Cost of 1 year private hire vehicle licence Grant:
£103**

**Cost of 1 year private hire vehicle licence Renewal:
£85**

**Cost of 6 month private hire vehicle licence Grant:
£69**

**Cost of 6 month private hire vehicle licence Renewal:
£51**

