

AGENDA

Regulatory Panel

**Wednesday, 15 November 2017 AT 14:00
In the Flensburg Room, Civic Centre, Carlisle, CA3 8QG**

Apologies for Absence

To receive apologies for absence and notification of substitutions

Declarations of Interest

Members are invited to declare any disclosable pecuniary interests, other registrable interests and any interests, relating to any item on the agenda at this stage.

Public and Press

To agree that the items of business within Part A of the agenda should be dealt with in public and that the items of business within Part B of the agenda should be dealt with in private.

Minutes of previous meetings

To note that Council, on 12 September 2017, received and adopted the minutes of the meeting held on 2 August 2017. (Minute Book Volume 44(2)

To note that Council, on 7 November 2017, received and adopted the minutes of the meeting held on 6 September 2017. (Minute Book Volume 44(3)

The Minutes will be signed by the Chairman.

PART A

To be considered when the Public and Press are present

A.1 HACKNEY CARRIAGE DRIVER – MOTORING CONVICTIONS 5 - 20

The Licensing Manager to submit a report regarding a Hackney Carriage Driver who had notified the Council of a recent conviction for speeding.

(Copy Report GD.67/17 herewith)

A.2 REVIEW OF CHARGES 2018/19 – LICENSING 21 - 32

The Licensing Manager to submit a report setting out the proposed fees and charges for area falling within the responsibility of the Licensing Section of the Governance Directorate.

(Copy Report GD.65/17 herewith)

PART B

To be considered when the Public and Press are excluded from the meeting

- NIL -

Members of the Regulatory Panel:

Conservative – Bainbridge, Bowman S, Layden, Morton, Mrs Parsons, Collier (sub), Higgs (sub) Nedved (sub)

Labour – Bell (Chairman), Mrs Birks, T Sidgwick, Stothard, Ms Williams (Vice-Chairman), Wilson, Miss Sherriff (sub) Dr Tickner (sub), Mrs Warwick (sub)

Independent - Tinnion, Betton (sub)

Enquiries, requests for reports, background papers etc to:

Rachel Plant, Democratic Services Officer, (01228) 817036 or
rachel.plant@carlisle.gov.uk

Report to Regulatory Panel

Agenda
Item:

A.1

Meeting Date: 15th November 2017
Portfolio: Finance, Governance and Resources
Key Decision: Not Applicable:
Within Policy and Budget Framework NO
Public / Private Public

Title: PHILIP JOSEPH LEE – HACKNEY CARRIAGE DRIVER –
MOTORING CONVICTIONS

Report of: Corporate Director of Governance and Regulatory Services
Report Number: GD 67 /17

Purpose/Summary

Philip Lee is a Licensed Hackney Carriage Driver. He has notified the Council of a recent conviction for speeding.

Recommendation:-

To reach a decision from the options available, after hearing the evidence and the response from Mr Lee in accordance with Section 61 (1) (a) (i) of the Local Government (Miscellaneous Provisions) Act 1976.

Tracking

Executive:	n/a
Overview and Scrutiny:	n/a
Council:	n/a

<u>NAME</u>	Philip Lee
<u>DATE OF BIRTH</u>	05/10/1958
<u>ADDRESS</u>	Wigton Road, Carlisle

Licensing History

Carlisle City Council has licensed Mr Lee as a Hackney Carriage Driver since 2001 and as Private Hire Driver in 2005 and 2006. He currently holds a Hackney Carriage driver licence. **(Appendix 1)**

Since 2003 Mr Lee has the following history recorded:

01/11/03 Speeding 51mph in 30 limit Metheun Street Glasgow (carrying passengers).
06/11/03 Speeding 36mph in 30 limit Tyneview Road Hexham (no passengers).
21/01/04 Appeared before Regulatory Panel because of above two offences when an official written warning was issued.
24/09/05 Speeding 47mph in 40 limit M6 Northbound Cheshire. (no passengers).
21/10/05 Warning letter issued regarding above offence. **(Appendix 3)**
06/01/12 Speeding 37mph in 30 limit Longtown Road Bampton (No passengers)
03/02/12 Warning letter issued regarding above offence. **(Appendix 4)**
16/12/12 Speeding 40mph in 30 limit Warwick Bridge Carlisle (No passengers).
15/01/13 Warning letter issued regarding above offence. **(Appendix 5)**
26/09/14 Speeding in 30mph limit Bampton Road Carlisle (No passengers).
17/09/15 Final Warning letter issued. **(Appendix 6)**

There is an obligation under the Hackney Carriage driver's code of practice that they must inform the Council, in writing, of any offence within 7 days, of any conviction, either motoring or criminal.

Mr Lee failed to carry this out in relation to the speeding offence dated 26/09/14 and a reminder of this was included within the final written warning letter forwarded to him on 7th September 2015. **(Appendix 6)**

BACKGROUND

During an Annual Administration check on the 29th September 17 **(Appendix 2)** it was discovered that Mr Lee had declared on a Statutory Declaration a further speeding offence that had occurred on 22nd January 2017. The Licensing Office had not been informed of this, and as a result Mr Lee was invited to attend the Civic Centre to explain details of the offence and why the Licensing Office had not been informed.

Whilst attending the Civic Centre Mr Lee explained to the Licensing Officer that the offence occurred on the 22nd January 2017. In February 2017, City Taxis (his operator) had received a notice to inform the Central Ticket Office as to the identity of the driver for the vehicle concerned. As a result later that month he acknowledged in writing that he was the driver of the vehicle at the time of the offence and in March 2017 received the Fixed Penalty Notice. He then forwarded the Licensing Office an e mail on 28th March 17 informing them of the conviction as well as the circumstances. He did provide the officer a screenshot of the e mail on his mobile phone (**Appendix 7**). It was noted by the officer that the spelling of 'licensing' within the e mail was incorrect and the Licensing Office had not received the e mail.

Mr Lee stated that his memory of the offence wasn't clear because of the time between the offence occurring and when he actually became aware it, but the notice had been issued for travelling at 37mph in a 30 limit whilst travelling eastbound at Warwick Bridge (A69). He believes he was travelling to his mother's address in the North East at that time and was not carrying any fare paying passengers.

Mr Lee apologised for this latest conviction and confirms that he has now 6 points endorsed on his licence of which 3 are valid until 22/01/20 and 3 that are no longer valid but will remain on the licence until 26/09/18. (**Appendix 8**)

LEGAL COMMENTS & LEGISLATION

Section 59 of the Local Government (Miscellaneous Provisions) Act 1976 provides that a licensing authority shall not grant a Hackney Carriage Driver's Licence unless it is satisfied that the applicant is a fit and proper person to hold such a licence. Section 61(1)(b) enables the Panel to take action in respect of a Driver on a number of grounds, notwithstanding that no criminal proceedings have been brought, if they consider that circumstances exist which mean that the driver is not, or is no longer, a fit and proper person to hold a driving licence. Section 61 (1)(b) gives the ground of **'for any other reasonable cause'** (**Appendix 9**).

While there is no statutory definition of 'fit and proper person', the Courts have given helpful guidance over the years and it is established that the objectives of the licensing regime are intended to ensure that licensed drivers are "suitable persons to do so, namely that they are safe drivers with good driving records and adequate experience; sober, mentally and physically fit, honest and not persons who would take advantage of their employment to abuse or assault passengers" (*McCool –v- Rushcliffe Borough Council [1998]*).

Mr Lee has disclosed the above speeding conviction and having heard Mr Lee and established the facts, Members need to consider whether he is, in light of these facts, a fit and proper person to continue to hold his licence. If not, it should be revoked. If the

misconduct is not, however, enough to lead to that conclusion, the Panel may consider whether a suspension or other lesser sanction is appropriate.

It is recommended that after hearing the evidence and any representations from Mr Lee, members reach a decision in line with the options available.

OPTIONS

1. To issue him with a letter of warning.
2. To suspend his Hackney Carriage drivers licence for a period of time.
3. To revoke his Hackney Carriage drivers licence.
4. To require Mr Lee to undertake and pass an approved provider driving test and or speed awareness training.

Contact Officer: Fred Watson

Ext: 7028

Appendices attached to report:	1 – Copy of Hackney Driver licence 2 – Hackney Driver annual administration check dated 08/09/17 3 - Warning letter issued 21/10/05 4 - Warning letter issued 03/02/12 5 - Warning letter issued 15/01/13 6 - Final warning letter issued 7/09/15 7 - Copy of e mail from Mr Lee dated 28/03/17 8 – DVLA Driving Licence Record 9 - Section 61 Local Govt. (Miscellaneous Provisions) Act 1976
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Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:
Miscellaneous Provisions Act 1976

CORPORATE IMPLICATIONS/RISKS:
Governance – Included within report

City of



Carlisle

Hackney Carriage Driver Licence **HD657**

Licence Holder

Phillip Joseph LEE

Wigton Road
Carlisle
Cumbria



Date of birth **05 Oct 1958**

Licence Validity

Valid from **01 Nov 2016** to **31 Oct 2019**

IMPORTANT NOTES

- This licence is subject to the provisions of the Town Police Clauses Act 1847, the bylaws made thereunder, the Local Government (Miscellaneous Provisions) Act 1976 and the Conditions attached to the licence made under it, the Transport Act 1985 and any other relevant Acts.
- The possession of this document does not guarantee that the licence is in force. Its validity may be established by reference to the Council's Licensing Office.
- This licence is not transferable

Wheelchair Accessible

Non Wheelchair Accessible

Conditions applicable to this licence are attached.

Licensing Manager

Dated: **01 Sep 2016**

CITY OF CARLISLE

HACKNEY CARRIAGE/PRIVATE HIRE DRIVER

RECEIVED ANNUAL ADMINISTRATION CHECK

Return to:
Licensing Manager
Governance Directorate
Carlisle City Council
Civic Centre
Carlisle
CA3 8QG

To be completed by Office

Lalpac No.	
Checks Complete	27/9
Licensing Officer	ET

<input checked="" type="checkbox"/>	DRIVING LICENCE STATUS/ENDORSEMENT CHECK
<input checked="" type="checkbox"/>	MEDICAL EXAMINATION /SELF CERTIFIED
<input checked="" type="checkbox"/>	STATUTORY DECLARATION RECEIVED

SEE ATTACHED
UNDISCLOSED
SPEEDING

FILE No 234

Licence Number (s)	HD 657 PD
Full Name	MR PHILIP J. LEE
Current Home Address	WIGTON ROAD CARLISLE CUMBRIA
Home Telephone Number.	N/A
Mobile Telephone Number	
Email	
Date of Birth	5th OCTOBER 1958
Name of Radio Circuit/Operator	CITY TAXIS
Driving Licence Number	
National Insurance Number	

I hereby submit details in order for the Licensing Authority to undertake an Annual Administration Check for my Hackney Carriage and/or Private Hire Driving. I understand it is an offence to knowingly or recklessly make a false statement or omit any material particulars in giving the above information.

I give Carlisle City Council consent to view my driving licence information through the Government digital enquiry service (Gov.uk)

Date: 8/9/2017 Signature:.....

STATUTORY DECLARATION

I Philip Joseph Lee of Wigton Road, Carlisle
 Date of Birth 5/10/58

DO SOLEMNLY DECLARE as follows:

1. For at least twelve months prior to the date hereof I have held a licence (not being a provisional licence) under Part III of the Road Traffic Act 1972 authorising me to drive a motor car.
2. ~~* I have never been convicted of any offence~~

OR (* DELETE AS APPLICABLE)

3. * I have been convicted of an offence or offences and I list below every offence which I have been convicted of including the date of the offence, the date of conviction, the court at which convicted and the sentence imposed by the court. This list includes any penalty imposed upon me other than by a Court but as a result of any legal process.

Date of offence	Date of conviction	Offence	Court at which convicted	Sentence or Order of the Court or Fixed Penalty Notice
22/1/2017		SP30		3 PENALTY POINTS
26/9/2014		SP30		3 PENALTY POINTS

I have not been convicted of any other offence except as set out above and I make this solemn declaration conscientiously believing the same along with the answers given in the attached application form to be true and by virtue of the provisions of the Statutory Declarations Act, 1835, and Section 5 of the Perjury Act, 1911.

Declared at 22 Portland Square, Carlisle

This 22nd day September 2017

Signature of applicant

In the County of Cumbria

Before me Abbie Michelle White

Solicitor/Commissioner for Oaths

Office Address & Stamp (if available).....



APPLICANTS ARE REMINDED THAT AS FAILURE TO COMPLETE THIS DECLARATION CORRECTLY COULD GIVE RISE TO CRIMINAL PROCEEDINGS, IT IS IMPORTANT THAT THE SOLICITOR INVOLVED IS GIVEN ALL THE RELEVANT FACTS.

THE DECLARATION ABOVE RELATES TO **ALL OFFENCES** INCLUDING ANY MOTORING OFFENCES AND MUST INCLUDE ALL CONVICTIONS EVEN THOUGH THEY MAY HAVE BEEN DISCLOSED ON PREVIOUS APPLICATIONS. BY VIRTUE OF THE REHABILITATION OF OFFENDERS ACT 1974 EXCEPTIONS ORDER 1975 AS AMENDED, (Hackney/Private Hire Drivers being a listed occupation)

ALL SPENT CONVICTIONS MUST BE DISCLOSED

Environmental Protection Services

Head of Environmental Protection Services :
 Civic Centre Carlisle CA3 8QG Telephone (01228) 817000 Fax (01228) 817023
 Document Exchange Quote DX 63037 Carlisle Type talk please ring 0800 95 95 98
 Council Website www.carlisle.gov.uk

Philip Lee
 Kendal Street
 Carlisle

Please ask for:

Mr J A Messenger
 Mr B Sharrock
 01228 817523

Direct Line:

E-mail:

Your ref:

Our ref:

Licensing/BS

21 October 2005

Dear Sir,

You recently reported to my Licensing Officer that on the 24th September 2005 you were issued with a fixed penalty ticket and 3 penalty points for speeding.

I am also aware of 2 previous speeding convictions in the last two years and an appearance before the Council's Licensing Panel where you were issued with a written warning regarding these two offences.

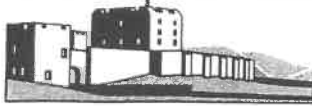
I am also aware of two complaints made by members of the public about your manner of driving.

Because of the relatively low speed recorded (47mph in a 40mph limit) I am prepared to deal with this latest offence by way of an official caution.

I must warn you however that should there be any further convictions, or indeed any breaches of the conditions of your Licence, it may be necessary for you to appear before the Licensing Panel where the options open to the members include the revocation or suspension of your Hackney Carriage or Private Hire Driver's Licences.

Yours faithfully

Licensing Manager

**CARLISLE
CITY COUNCIL****www.carlisle.gov.uk****Governance Directorate****Director of Governance: M D Lambert LLB (Hons)**Civic Centre Carlisle CA3 8QG Telephone (01228) 817000 Fax (01228) 817023
Document Exchange Quote DX 63037 Carlisle Type talk 18001 01228 817000
Council Website www.carlisle.gov.uk

Mr P J Lee

Fenton
Brampton
Cumbria
CA1 1EE

Enquiries to:

Fred Watson

Direct Dial:

01228 817523

3 February 2012

Dear Mr Lee

Philip Lee New Conviction

I have received your disclosure of additional conviction relating to a speeding offence committed on 6th January 2012.

The offence occurred on Stanwix Bank, Carlisle and was dealt with by means of a fixed penalty notice

As there were no passengers in the taxi at the time I intend to deal with this matter by way of a written warning. The incident will be recorded on your file and may be mentioned in any future appearance before the Regulatory Panel.

Yours sincerely

Licensing Manager

Environmental Protection Services

Head of Environmental Protection Services : Richard Speirs MIEH MIOA
 Civic Centre Carlisle CA3 8QG Telephone (01228) 817000 Fax (01228) 817346
 Document Exchange Quote DX 63037 Carlisle Type talk please ring 0800 95 95 98
 Council Website www.carlisle.gov.uk

Mr P J Lee

Fenton
 Brampton

Please ask for:

Direct Line:

E-mail:

Your ref:

Our ref:

Mr J A Messenger
 Mr F Watson
 01228 817026

Licensing/FW

15 January 2013

Dear Sir,

My Licensing Officer has informed me that you reported having been issued with a fixed penalty notice on the 16th December 12 for speeding and you received 3 penalty points. On the 6th January 12 you received a similar fixed penalty and points. Both of these offences took place in your taxi.

This Council considers motoring offences, especially speeding, to be a serious matter, especially as in this case you were in a licensed vehicle, although not carrying fare paying passengers.

Because of this conviction I must warn you that should there be any further convictions, or indeed any breaches of the conditions of your Licence, it may be necessary for you to appear before the Licensing Panel where the options available to the members include the revocation or suspension of your Hackney Carriage Driver's Licence.

Yours faithfully

Licensing Manager



Governance Directorate

Director of Governance: M D Lambert LLB (Hons)

Civic Centre Carlisle CA3 8QG Telephone (01228) 817000 Fax (01228) 817023
 Document Exchange Quote DX 63037 Carlisle Type talk 18001 01228 817000
 Council Website www.carlisle.gov.uk

Mr P J Lee
 Wigton Road
 Carlisle
 Cumbria

Enquiries to: Barry Sharrock
 Direct Dial: Licensing Officer
licensing@carlisle.gov.uk

7 September 2015

Dear Mr Lee

Speeding Offence

Further to your recent notification of a speeding offence in September 2014, I must remind you that there is an obligation on you to inform the Council, in writing within 7 days, of any conviction, either motoring or criminal.

I have listed below your convictions and history with regard to speeding since you have been licensed to try to reinforce how any further conviction would impact on your licence with this Council

01/11/03	speeding
06/11/03	speeding
21/01/04	appearance before The Regulatory Panel because of the above 2 speeding offences where an official written warning was issued.
24/09/05	speeding
21/10/05	warning letter issued
06/01/12	speeding
03/02/12	warning letter issued
16/12/12	speeding
15/01/13	warning letter issued
26/09/14	speeding
07/09/15	Final Warning Letter Issued

I must warn you therefore that should there be any further convictions, or indeed any breaches of the conditions of your licence, you will have to make a further appearance before the Regulatory Panel where the options open to the members include the revocation or suspension of your Hackney Carriage and/or Private Hire Driver's Licences.

Yours sincerely

Licensing Manager

Frederick Watson

From: Phill Lee
Sent: 06 October 2017 13:21
To: fred.watson@carlisle.go.uk
Subject: Fwd: Speeding Offence

Get [Outlook for Android](#)

From: Phill Lee
Sent: Tuesday, March 28, 2017 7:46:25 PM
To: licencing@carlisle.gov.uk
Subject: Speeding Offence

Hi

I am contacting this office regarding a speeding offence on the 22/01/2017 at 3.00hrs at Warwick Bridge Eastbound. Automatic camera device at a speed of 37mph.

I have recieved the paperwork and have a £100 fine and fixed penalty.

My details
Mr Phillip Lee
Wigton Road
Carlisle

Hackney Carriage Driver Licence No HD657

Sent from Samsung Mobile on O2



Licence summary

You can share this licence information summary with someone else like your employer or a car hire firm.

Mr PHILLIP JOSEPH LEE

Driving licence number:
XXXXXXXXX058PJ9CD

Licence issue number:
30

Licence valid from:
17 May 2014

Licence valid to:
5 September 2023

Check code:

Rw Tn vb Py

This code
• is case sensitive
• is valid for 21 days
• can only be used once

Date summary generated:

24 October 2017 14:36

Driving Status

Current full licence

Endorsements

1

Offences

3

Points

Endorsements

SP30

Penalty points:
3

Offence date:
22 January
2017

Expiry date:
22 January
2020

Description:

Exceeding statutory speed limit on a public road

SP30

Expired

Penalty points:
3










Offence date:
26 September
2014

Expiry date:
26 September
2017


Description:

Exceeding statutory speed limit on a public road

Can drive

Category	Start date	End date	Codes
AM 	6 September 2013	4 October 2028	
A 	19 January 2013	4 October 2028	79
B1 	8 May 1987	4 October 2028	
B 	8 May 1987	4 October 2028	
BE 	8 May 1987	4 October 2028	
C1 	8 May 1987	4 October 2028	
C1E 	8 May 1987	4 October 2028	107
D1 	8 May 1987	4 October 2028	101
D1E 	8 May 1987	4 October 2028	101, 119

Provisionally drive

Category	Start date	End date	Codes
A 	19 September 1978	4 October 2028	
G 	19 September 1978	4 October 2028	
H 	19 September 1978	4 October 2028	

What to do next

How to share your licence summary

Give the check code or this licence summary to someone else, like your employer or a car hire firm. They'll also need the last 8 characters of your driving licence number.

Where to view a shared licence summary

Visit <https://www.gov.uk/check-driving-licence> and enter the last 8 characters of the driving licence number and the check code.

Check code not working?

If the code generated is older than 21 days, or the code has been viewed once before, a new code must be created.





Licence summary

You can share this licence information summary with someone else like your employer or a car hire firm.

Mr PHILLIP JOSEPH LEE

Driving licence number:
XXXXXXXX058PJ9CD

Licence issue number:
30

Licence valid from:
17 May 2014

Licence valid to:
5 September 2023

Check code:

Rw Tn vb Py

- This code
- is case sensitive
 - is valid for 21 days
 - can only be used once

Date summary generated:

24 October 2017 14:36

Driving Status

Current full licence



Endorsements

1

Offences

3

Points

Category	Start date	End date	Codes
F 	8 May 1987	4 October 2028	
K	8 May 1987	4 October 2028	
L	8 May 1987	4 October 2028	
N	8 May 1987	4 October 2028	
P 	8 May 1987	4 October 2028	
Q	6 September 2013	4 October 2028	

What to do next

How to share your licence summary

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Visit <https://www.gov.uk/check-driving-licence> and enter the last 8 characters of the driving licence number and the check code.

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Local Government (Miscellaneous Provisions) Act 1976

1976 CHAPTER 57

PART II

HACKNEY CARRIAGES AND PRIVATE HIRE VEHICLES

Annotations:

Modifications etc. (not altering text)

- C1** Pt. II(ss. 45–80) modified by [Transport Act 1978 \(c. 55, SIF 126\), s. 7\(3\)](#)
- C2** Pt. II(ss. 45–80) amended by [Public Passenger Vehicles Act 1981 \(c. 14, SIF 107:1\), s. 79](#)
- C3** Pt. II(ss. 45–80) applied with modifications by [S.I. 1986/567, regs. 3, 4](#)
- C4** Pt. II (ss. 45-80) extended (1.4.2000) by [1999 c. 29, s. 255\(1\)\(4\)](#); [S.I. 2000/801, art. 2\(2\)\(a\), Sch. Pt. 1](#)
Pt. II (ss. 45-80) excluded (1.7.2001) by [1981 c. 14, s. 79A\(1\)\(a\)](#) (as inserted (1.7.2001) by [2000 c. 38, s. 265\(2\)](#); [S.I. 2001/1498, art. 3](#))

61 Suspension and revocation of drivers' licences.

- (1) Notwithstanding anything in the Act of 1847 or in this Part of this Act, a district council may suspend or revoke or (on application therefor under section 46 of the Act of 1847 or section 51 of this Act, as the case may be) refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on any of the following grounds:—
 - (a) that he has since the grant of the licence—
 - (i) been convicted of an offence involving dishonesty, indecency or violence; or
 - (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act; or
 - (b) any other reasonable cause.
- (2) (a) Where a district council suspend, revoke or refuse to renew any licence under this section they shall give to the driver notice of the grounds on which the

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licence has been suspended or revoked or on which they have refused to renew such licence within fourteen days of such suspension, revocation or refusal and the driver shall on demand return to the district council the driver's badge issued to him in accordance with section 54 of this Act.

- (b) If any person without reasonable excuse contravenes the provisions of this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F1}level 1 on the standard scale].

[^{F2}(2A) Subject to subsection (2B) of this section, a suspension or revocation of the licence of a driver under this section takes effect at the end of the period of 21 days beginning with the day on which notice is given to the driver under subsection (2)(a) of this section.

- (2B) If it appears that the interests of public safety require the suspension or revocation of the licence to have immediate effect, and the notice given to the driver under subsection (2) (a) of this section includes a statement that that is so and an explanation why, the suspension or revocation takes effect when the notice is given to the driver.]

- (3) Any driver aggrieved by a decision of a district council under [^{F3}subsection (1) of] this section may appeal to a magistrates' court.

Annotations:

Amendments (Textual)

- F1** Words substituted by virtue of [Criminal Justice Act 1982](#) (c. 48, SIF 39:1), **ss. 38, 46**
- F2** [S. 61\(2A\)\(2B\)](#) inserted (16.3.2007) by [Road Safety Act 2006](#) (c. 49), **ss. 52(2)**, 61; S.I. 2007/466, **art. 2**
- F3** Words in [s. 61\(3\)](#) inserted (16.3.2007) by [Road Safety Act 2006](#) (c. 49), **ss. 52(3)**, 61; S.I. 2007/466, **art. 2**

Modifications etc. (not altering text)

- C5** [S. 61](#): functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), **reg. 2(1)**, **Sch. 1** Table B4

Report to Regulatory Panel

Agenda
Item:

A.2

Meeting Date: 15th November 2017
Portfolio: Finance, Governance and Resources
Key Decision: Not Applicable:
Within Policy and Budget Framework YES
Public / Private Public

Title: REVIEW OF CHARGES 2018/19 – LICENSING
Report of: Corporate Director of Governance & Regulatory Services
Report Number: GD 65/17

Purpose / Summary:

This report sets out the proposed fees and charges for areas falling within the responsibility of the Licensing Section of the Governance and Regulatory Services Directorate. The Regulatory Panel has responsibility for determining the licence fees, with the exception of those under the Scrap Metal Dealers Act 2013 which falls to the Executive

Recommendations:

The Regulatory Panel is asked to agree the charges as set out in Appendices 'A' and 'B', with the exception of the Scrap Metal Act fees which have been determined by the Executive.

Tracking

Executive:	20/11/17 & 18/12/17
Scrutiny:	Health & Wellbeing Scrutiny Panel 23/11/17 Economic Growth Scrutiny Panel 30/11/17 Business & Transformation Scrutiny Panel 5/12/17
Council:	

1. BACKGROUND

- 1.1 Each Directorate is required to carry out an annual review of fees and charges.
- 1.2 This report proposes the review of charges within the Governance and Regulatory Services Directorate in respect of Licensing Charges. The report has been prepared in accordance with the principles approved under the Council's Corporate Charging Policy.
- 1.3 The charges, which have been reviewed, are addressed separately below.
- 1.4 Attached at **Appendix A & B** is an extract from the summary of charges book, which shows the current and proposed level of charge for each of these services.

2. CORPORATE CHARGING POLICY 2018

- 2.1 The Corporate Charging Policy, which is part of the Strategic Financial Framework, was approved by the Executive and Full Council and sets out the City Council's policy for reviewing charges.
- 2.2 It is recognised that licence fees (that can be determined by local authorities) can only be set at a level which recovers the cost of administration, inspection and in some cases compliance of existing licences, which arise out of carrying out their licensing functions under the various legislation. Under European Directive 2006/123 art 13(2), any charges which an applicant for a licence may incur shall be reasonable and proportionate to the cost of the authorisation procedures in question and shall not exceed the cost of the procedures.
- 2.3 In July 2017 the Supreme Court has ruled in favour of Westminster City Council in a long running case on how licensing fees are charged (Hemming (t/a Simply Pleasure Ltd) and other v Westminster City Council) . The case will affect councils and other licence fee charging bodies across the UK allowing them to recoup regulatory and enforcement costs instead of just the administration costs of granting a licence. The original case was brought against the Council by the owner of the Simply Pleasures Ltd over licencing fees paid to operate a sex shop in Westminster.
- 2.4 It is Council policy to maximise charges to maintain full cost recovery wherever possible, and this should be the case when setting charges. In the case of licensing we are currently operating at an income level that is achieving full cost recovery.
- 2.5 Recognition should be made of the risk that licensing income levels can be subject to market forces out with the Council's overall control, including new responsibilities and the repeal of other legislation. In previous years, shortfalls in income projections for certain services were encountered. This reinforces the message that any practice of simple annual increments in charges in line with the rate of inflation is inappropriate, as is a copycat approach that simply compares prices with other authorities, without taking into account other local factors, demand, and the achievement of Council priorities. The full range of factors identified in the guidance

must be taken into account when setting charges, with the overall aim of achieving target income levels to achieve the full cost recovery of the administration, inspection and compliance with the licensing function.

- 2.6 In addition, the policy recognises that each Directorate is different, and requires Directors to develop specific principles for their particular service or clients groups.

3 LICENSES

- 3.1 Licensing income covers an extremely wide range of functions for which the Council is the licensing authority and the number of applications for various licences fluctuates each year. The current principal functions relate to the issue of licences for Premises and Personal (Licensing Act 2003), Hackney Carriages/Private Hire (Vehicles, Drivers and Operators), Gambling Premises and Machine Permits (Gambling Act 2005), Street Trading, Auctioneers and Sex Establishments.
- 3.2 The fee structure for charges relating to the Licensing Act 2003 is fixed by the Government.
- 3.3 With regard to the Gambling Act 2005 local authorities assumed responsibility for licensing gambling premises and gaming machines during 2007, whilst the Gambling Commission licensed operators and personal licence holders. The fee banding was set nationally and licensing authorities were given the flexibility to set their fees within these bands, dependent upon local circumstances. On 4th April 2007 the Licensing Committee (through delegated authority) determined the fees in accordance with the regulations which are included in Appendix B. Fees under the Act for Lottery registration are fixed by central Government.
- 3.4 The remaining licences administered by the Authority have locally set charges. A full review of the charging has been undertaken using a new formula on a cost per hour charge and a fee structure is proposed which will not compromise the Council's position as a fair charging authority and should achieve full cost recovery.

4 LICENCING ACT 2003

PREMISES LICENCES AND CLUB CERTIFICATES

- 4.1 The total number of premises and club certificates currently licensed is 501. This will always fluctuate each year and applications for variations will continue. We are now in a position to predict with a fair degree of accuracy what the income will be in 2018/19. Educational, church and community premises that apply for an entertainment only premises licence are exempt from the licence fee and we currently license 24 such premises.
- 4.2 The fee structure is fixed by central government and is based upon five non-domestic rateable value bands. There is no change in the fee structure and based

upon the current number of licences issued, it is estimated that there will be an income of £99,000 in 2018/19, as set out in the fee bands at Appendix A.

PERSONAL LICENCES

- 4.3** Any person who authorises the sale of alcohol requires a personal licence. All premises that are licensed for the sale of alcohol must therefore have a personal licence holder to authorise that sale.
- 4.4** We currently have a total of 1743 Personal Licences issued to date and a licence is issued for an indefinite period.
- 4.5** The Authority receives requests for amendments to licences and these are charged at £10.50.
- 4.6** Based upon the current numbers of applications received between 1st April 2017 and the 1st October 2017 it is estimated that this will continue at the same level and generate an estimated annual income of £3,500.

5 VEHICLE & DRIVERS LICENCES

HACKNEY CARRIAGE VEHICLES

- 5.1** Under the provision of the Local Government (Miscellaneous Provisions) Act 1976, the City Council may fix a reasonable fee to cover the cost of administration of Hackney Carriage Licences and vehicle inspections.
- 5.2** Traditionally this Council has charged a lower fee for wheelchair accessible vehicles to encourage proprietors to purchase this type of vehicle. The difference in costs has been reduced over the years following a resolution by the Regulatory Panel to only issue new licences to wheelchair accessible vehicles and following the full review of charges it is proposed to bring these fees in line so that the same fee is charged for all Hackney Vehicle applications regardless of the type of vehicle.

HACKNEY CARRIAGE DRIVER LICENCES

- 5.3** The cost of a new driver licences reflect work that is currently undertaken with prospective new drivers. This includes advice, training, knowledge and communication tests, verification of Disclosure and Barring Service applications and an assessment on the initial application to determine the fitness and propriety of an applicant.
- 5.4** Licences are issued for a 3 year period unless a request has been made for a 1 year licence and licenced drivers are charged at a renewal rate.

PRIVATE HIRE

- 5.5** The Local Government (Miscellaneous Provisions) Act 1976 provides for the regulation of the private hire trade by means of the issue of licences for operators, vehicles and drivers.

PRIVATE HIRE DRIVER LICENCES

- 5.6** The cost of a new driver licences reflect work that is currently undertaken with prospective new drivers. This includes advice, training, knowledge and communication tests, verification of Disclosure and Barring Service applications and an assessment on the initial application to determine the fitness and propriety of an applicant.
- 5.7** Licences are issued for a 3 year period unless a request has been made for a 1 year licence and licenced drivers are charged at a renewal rate.
- 5.8** The fees for drivers, vehicles and operators, which aim to generate income of £73,000 for Hackney Carriage and £29,500 for Private Hire in 2018/19, are set out in Appendix A.

6 SEX ESTABLISHMENTS

- 6.1** The City Council has issued two sex establishment licences. The review identifies no increase to the licence fee and estimates an income of £3,800 in 2018/19.

7 AUCTIONEERS

- 7.1** We only have one premise which requires licensed auctioneers. Currently we have 13 licensed Auctioneers. The estimated income in 2018/19 is £600.

8 PLEASURE BOATS & BOATMEN

- 8.1** The number of pleasure boats and boatmen has remained static in recent years. In order to approve the application the Licensing Authority is required to commission a professional inspector to assess the pleasure boats. The cost of this service is to be recharged to the applicant. The suggested charge aims to generate income of £500 in 2018/19.

9 SCRAP METAL DEALERS

- 9.1** The Scrap Metal Dealers Act 2013 which commenced on 1st October 2013 brings together two earlier pieces of legislation that covered Scrap Metal and Motor Salvage Operators. The licence covers a three year period therefore the income will vary from year to year.
- 9.2** The current fee was agreed by the Executive on 1st August 2016 for a period of three years and will be reviewed again in 2019.
- 9.3** The current renewals expect to generate income of £2900 in 2018/19, as set out in Appendix A.

10 STREET TRADING

- 10.1 A review of the Street Trading Policy has recently been undertaken as was approved by the Executive in 2017. The cost of an annual licence was increased during the charging review in November 2016 to reflect the changes to the policy and the increased administration costs of a Street Trading Consent.
- 10.2 It is proposed to introduce a discounted rate of £30 for an Occasional Street Trading Consent for applicants who currently hold an annual Consent to reflect the reduction in administration.
- 10.3 Based upon the current numbers of consents it is estimated that this will generate an estimated annual income of £4,800.

11 RIDING ESTABLISHMENTS

- 11.1 The current number of licensed riding establishments is 4. In order to approve the application the Licensing Authority is required to commission a Veterinary Surgeon to assess the establishment. The cost of this service is recharged to the applicant. The suggested charge aims to generate income of £500.

12 GAMBLING ACT 2005

LOTTERY LICENCES

- 12.1 The fee for lottery registrations is determined by central government and is at present £40 and the renewal fee is £20.00; these charges were last increased in September 2007. There has been a decrease in the number of applications received over recent years and the income target has been reduced to reflect this. The current fee should generate approximately £4,400 in 2018/19.

GAMBLING PREMISES AND MACHINE PERMITS

- 12.2 The fee bands are set by central government and the Licensing Committee sets its own fees within these limits, based upon full cost recovery of providing the licensing service. These fees were determined on 4th April 2007 by this committee and we continue to recover the full cost of providing the service and no change is recommended.
- 12.3 At the current level of fees, an estimated income of £14,000 for Gambling Premises and Machine Permits will be received during 2018/19, which is set out in Appendix B.

13 SUMMARY OF INCOME GENERATED

13.1 The introduction of the charges proposed is an estimate (based upon the current and estimated number of licences) to generate income of £236,500 in 2018/19 which is summarised in the table below:

Service Area	Updated Budget 2017/18	MTFP Target 2018/19	Original Estimate 2018/19	Shortfall or (Excess) over MTFP	
Licensing Act 2003 - Premises	99,000	99,000	99,000	0	*
Licensing Act 2003 - Personal Licences	1,100	1,100	3,500	(2,400)	*
Gambling Act 2005 - Lotteries	4,400	4,400	4,400	0	*
Gambling Act 2005 - Premises and Gaming Machines	14,000	14,000	14,000	0	*
Hackney Carriage	73,000	73,000	73,000	0	
Private Hire	29,000	29,000	29,500	(500)	
Sex Establishment	3,800	3,800	3,800	0	
Auctioneers	600	600	600	0	
Pleasure Boats	1,100	1,100	500	600	
Scrap Metal	3,600	3,600	2,900	700	
Street Trading	6,700	6,700	4,800	1,900	
Riding Establishments	500	500	500	0	
Total	236,800	236,800	236,500	300	

***Fixed fee**

14 CONSULTATION

Consultation to Date – None

Consultation Proposed - Hackney fees must be advertised in the local press after determination.

15 RECOMMENDATIONS

The Regulatory Panel is asked to agree the charges as set out in Appendices 'A' and 'B' with effect from 1st April 2018

16 REASONS FOR RECOMMENDATIONS

To ensure that the City Council's Corporate Charging Policy is complied with and sufficient income is generated to cover the costs associated with administering and enforcing the Council's statutory licensing function

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Appendices attached to report: **A – Charging Structure 2018/19 – Licensing Act & Misc**
 B – Proposed Charging 2018/19 – Gambling Act

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

- None

CORPORATE IMPLICATIONS/RISKS:

Community Services –

Corporate Support & Resources – The acceptance of the charges highlighted in this report will result in an anticipated level of income of £236,500 against the MTFP target of £236,800. This represents a shortfall of £300 against the MTFP target which will be contained within the overall budgets for the service.

Economic Development –

Governance & Regulatory Services -

Charging structure – Licensing 2018/19

Licensing Act 2003 (charges are currently set by the Home Office)

	New	Charge from 01/02/17 Annual Fee	Charge from 01/04/18 Annual Fee	Implementation Date
Premises	Band A	100.00	70.00	24/11/05
	Band B	190.00	180.00	24/11/05
	Band C	315.00	295.00	24/11/05
	Band D	450.00	320.00	24/11/05
	Band E	635.00	350.00	24/11/05
	Personal Licence	37.00	Amendment – 10.50	Amendment 10.50

Vehicles - Hackney Carriages

		Charge from 01/02/17	Proposed Charge from 01/04/18
Hackney Carriage Vehicle (Non- Wheelchair)	New	231.00	- no new non WAV
	Renewal	197.00	190.00
Hackney Carriage Vehicle (Wheelchair)	New	215.00	230.00
	Renewal	176.00	190.00
Hackney Carriage Driver – 1 year	New	125.00	165.00
	Renewal	75.00	110.00
Hackney Carriage Driver – 3 year	New	242.00	285.00
	Renewal	185.00	195.00
Certificate of Compliance (COC)		10.00	11.00
Transfer of Licence		30.00	31.00
Change of Vehicle		30.00 (Exl Plate)	50.00 (Incl Plate)
Duplicate Licence		13.00	13.00
Test Fee		50.00	52.00
Test Fee DNTU		25.00	26.00
Retest Fee		35.00	36.00
New Licence Plate		13.00	14.00

Vehicles – Private Hire

		Charge from 01/02/17	Proposed Charge from 01/04/18
Private Hire Vehicle	New	200.00	206.00
	Renewal	160.00	165.00
Private Hire Driver – 1 year	New	115.00	165.00
	Renewal	75.00	110.00
Private Hire Driver – 3 year	New	242.00	285.00
	Renewal	185.00	195.00
Certificate of Compliance (COC)		10.00	11.00
Transfer of Licence		30.00	34.00
Change of Vehicle		30.00 (Exl Plate)	55.00 (Incl Plate)
Duplicate Licence		13.00	13.50
Test Fee		50.00	52.00
Test Fee DNTU		25.00	26.00
Retest Fee		35.00	36.00
Private Hire Operator	1-5 Vehicles 1 Year	175.00	210.00
	5 Year	495.00	490.00
	6-10 Vehicles 1 Year	245.00	275.00
	5 Year	550.00	615.00
	11-20 Vehicles 1Year	460.00	320.00
	5 Year	670.00	725.00
	21-30 Vehicles 1 Year	595.00	365.00
	5 Year	745.00	870.00
New Licence Plate		13.00	14.00

Miscellaneous Licences

		Charge from 01/02/17	Proposed Charge from 01/04/18
Auctioneers		43.00	45.00
Riding Establishments (plus Vets Fees)		103.00	105.00
Sex Establishments	New	2500.00	2000.00
	Renewal	1900.00	1900.00
	Variation	250.00	250.00
	Transfer	125.00	125.00
Street Trader	New	210.00	230.00
	Renewal	210.00	210.00
	Occasional	50.00	50.00 30.00 (annual consent holders)
Scrap Metal Collector	New	250.00	No Change - Charges agreed by Executive
	Renewal	250.00	
	Vary Name/Address	30.00	
Scrap Metal Site	New	415.00	
	Renewal	415.00	
	Vary Name	30.00	
	Vary Site Manager	30.00	
	Vary Site	165.00	
	Add Site	165.00	
Boats (plus Inspection Fees)		45.00	48.00
Boatman		25.00	37.00
Miscellaneous Duplicate Items		12.00	13.00

Gambling Act 2005 Premises Licence Fee Structure

APPENDIX 'B'

Type of Premises	Provisional Statement Premises	New Application Premises	Annual Fee	Seasonal Annual Fee	Variation Application	Provisional Statement Application	Transfer	Re-instatement
Regional Casino	£8,000	£15,000	£15,000	£15,000	£7,500	£15,000	£6,500	£6,500
Large Casino	£5,000	£10,000	£10,000	£10,000	£5,000	£10,000	£2,150	£2,150
Small Casino	£3,000	£8,000	£5,000	£5,000	£4,000	£8,000	£1,800	£1,800
Converted Casino			£3,000	£3,000	£2,000		£1,350	£1,350
Bingo	£1,000	£2,500	£700	£700 pro-rata* min £300	£1,250	£2,500	£500	£500
Adult Gaming Centre	£600	£1,600	£700	£700 pro-rata* min £300	£800	£1,600	£400	£400
Betting (Track)	£950	£2,500	£1,000	£1,000 pro-rata* min £300	£1,250	£2,500	£950	£950
Family Entertainment Centre	£600	£1,600	£400	£400 pro-rata min £200	£800	£1,600	£300	£300
Betting (Other)	£600	£1,800	£500	£500 pro-rata* min £200	£900	£1,800	£300	£300

All premises: Fee for copy of Licence £15

Fee to accompany notification of change of circumstances £30