



Kim Webber B.Sc. M.Sc.  
Chief Executive  
52 Derby Street  
Ormskirk  
West Lancashire  
L39 2DF

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Tuesday, 31 January 2017

**TO: COUNCILLORS      T. DEVINE, N DELANEY, C EVANS, J KAY, D MCKAY, J MEE,  
R MELLING, M MILLS, G OWEN, A OWENS AND K WRIGHT**

Dear Councillor,

A meeting of the **LICENSING & APPEALS COMMITTEE** will be held in the **COUNCIL CHAMBER - 52 DERBY STREET, ORMSKIRK L39 2DF** on **TUESDAY, 7 FEBRUARY 2017** at **7.30 PM** at which your attendance is requested.

Yours faithfully

A handwritten signature in black ink, appearing to be "Kim Webber", written over a horizontal line.

Kim Webber  
Chief Executive

**AGENDA**  
**(Open to the Public)**

- 1.      APOLOGIES**
- 2.      MEMBERSHIP OF THE COMMITTEE**

To be apprised of any changes to the membership of the Committee in accordance with Council Procedure Rule 4.

- 3.      URGENT BUSINESS**

Note: No other business is permitted unless, by reason of special circumstances, which shall be specified at the meeting, the Chairman is of

the opinion that the item(s) should be considered as a matter of urgency.

**4. DECLARATION OF PARTY WHIP**

Party Whips are not to be used by this Committee in respect of functions concerning the determination of new Licence Applications, Revocations and Appeals. When considering any other matter which relates to a decision of the Cabinet or the performance of any Member of the Cabinet, in accordance with Regulatory Committee Procedure Rule 9, Members must declare the existence of any Party Whip and the nature of it, before the commencement of the Committee's deliberations on the matter.

**5. DECLARATION OF INTEREST**

286 -  
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If a Member requires advice on Declarations of Interest, he/she is advised to contact the Borough Solicitor in advance of the meeting. (For the assistance of members a checklist for use in considering their position on any particular item is included at the end of the agenda sheet).

**6. MINUTES OF SUB-COMMITTEES OR WORKING GROUPS**

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To note the Minutes of the Employment Appeals Sub-Committee held on 20 September 2016.

**7. MINUTES**

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293

To receive as a correct record the minutes of the meeting held on the 6 December 2016.

**8. LICENSING FEES AND CHARGES 2017/18**

294 -  
303

To consider the report of the Director of Leisure and Wellbeing.

**9. EXCLUSION OF PRESS AND PUBLIC**

It is recommended that members of the press and public be excluded from the meeting during consideration of the following item(s) of business in accordance with Section 100A(4) of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act and as, in all the circumstances of the case the public interest in disclosing the information. The nature of the exempt information and the relevant exemption paragraphs are shown in brackets after the report title.

**10. DETERMINATION OF EXISTING PRIVATE HIRE DRIVER LICENCE  
- WK/000225358**

304 -  
309

(IDENTITY OF AN INDIVIDUAL/CRIMINAL MATTERS – Paragraphs 2 & 7)  
To consider the report of the Director of Leisure and Wellbeing.

**11. PRIVATE HIRE DRIVER - DETERMINATION OF EXISTING  
LICENCE- WK/000223790**

310 -  
313

(IDENTITY OF AN INDIVIDUAL/CRIMINAL MATTERS – Paragraphs 2 & 7)

To consider the report of the Director of Leisure and Wellbeing.

12. **DETERMINATION OF EXISTING PRIVATE HIRE DRIVER LICENCE** 314 -  
**- WK/000225287** 319

(IDENTITY OF AN INDIVIDUAL /CRIMINAL MATTERS – Paragraphs 2 & 7)

To consider the report of the Director of Leisure and Wellbeing.

**We can provide this document, upon request, on audiotape, in large print, in Braille and in other languages.**

**FIRE EVACUATION PROCEDURE: Please see attached sheet.**

**MOBILE PHONES: These should be switched off or to 'silent' at all meetings.**

For further information, please contact:-

Julia Brown on 01695 585065

Or email [julia.brown@westlancs.gov.uk](mailto:julia.brown@westlancs.gov.uk)

**FIRE EVACUATION PROCEDURE FOR:  
COUNCIL MEETINGS WHERE OFFICERS ARE PRESENT  
(52 DERBY STREET, ORMSKIRK)**

<b>PERSON IN CHARGE:</b>	Most Senior Officer Present
<b>ZONE WARDEN:</b>	Member Services Officer / Lawyer
<b>DOOR WARDEN(S)</b>	Usher / Caretaker

**IF YOU DISCOVER A FIRE**

1. Operate the nearest **FIRE CALL POINT** by breaking the glass.
2. Attack the fire with the extinguishers provided only if you have been trained and it is safe to do so. **Do not** take risks.

**ON HEARING THE FIRE ALARM**

1. Leave the building via the **NEAREST SAFE EXIT**. **Do not stop** to collect personal belongings.
2. Proceed to the **ASSEMBLY POINT** on the car park and report your presence to the **PERSON IN CHARGE**.
3. **Do NOT** return to the premises until authorised to do so by the **PERSON IN CHARGE**.

**NOTES:**

Officers are required to direct all visitors regarding these procedures i.e. exit routes and place of assembly.

The only persons not required to report to the Assembly Point are the Door Wardens.

**CHECKLIST FOR PERSON IN CHARGE**

1. Advise other interested parties present that you are the person in charge in the event of an evacuation.
2. Make yourself familiar with the location of the fire escape routes and inform any interested parties of the escape routes.
3. Make yourself familiar with the location of the assembly point and inform any interested parties of that location.
4. Make yourself familiar with the location of the fire alarm and detection control panel.
5. Ensure that the zone warden and door wardens are aware of their roles and responsibilities.
6. Arrange for a register of attendance to be completed (if considered appropriate / practicable).

**IN THE EVENT OF A FIRE, OR THE FIRE ALARM BEING SOUNDED**

1. Ensure that the room in which the meeting is being held is cleared of all persons.
2. Evacuate via the nearest safe Fire Exit and proceed to the **ASSEMBLY POINT** in the car park.
3. Delegate a person at the **ASSEMBLY POINT** who will proceed to **HOME CARE LINK** in order to ensure that a back-up call is made to the **FIRE BRIGADE**.
4. Delegate another person to ensure that **DOOR WARDENS** have been posted outside the relevant Fire Exit Doors.

5. Ensure that the **ZONE WARDEN** has reported to you on the results of his checks, **i.e.** that the rooms in use have been cleared of all persons.
6. If an Attendance Register has been taken, take a **ROLL CALL**.
7. Report the results of these checks to the Fire and Rescue Service on arrival and inform them of the location of the **FIRE ALARM CONTROL PANEL**.
8. Authorise return to the building only when it is cleared to do so by the **FIRE AND RESCUE SERVICE OFFICER IN CHARGE**. Inform the **DOOR WARDENS** to allow re-entry to the building.

**NOTE:**

The Fire Alarm system will automatically call the Fire Brigade. The purpose of the 999 back-up call is to meet a requirement of the Fire Precautions Act to supplement the automatic call.

**CHECKLIST FOR ZONE WARDEN**

1. Carry out a physical check of the rooms being used for the meeting, including adjacent toilets, kitchen.
2. Ensure that **ALL PERSONS**, both officers and members of the public are made aware of the **FIRE ALERT**.
3. Ensure that **ALL PERSONS** evacuate **IMMEDIATELY**, in accordance with the **FIRE EVACUATION PROCEDURE**.
4. Proceed to the **ASSEMBLY POINT** and report to the **PERSON IN CHARGE** that the rooms within your control have been cleared.
5. Assist the **PERSON IN CHARGE** to discharge their duties.

It is desirable that the **ZONE WARDEN** should be an **OFFICER** who is normally based in this building and is familiar with the layout of the rooms to be checked.

**INSTRUCTIONS FOR DOOR WARDENS**

1. Stand outside the **FIRE EXIT DOOR(S)**
2. Keep the **FIRE EXIT DOOR SHUT**.
3. Ensure that **NO PERSON**, whether staff or public enters the building until **YOU** are told by the **PERSON IN CHARGE** that it is safe to do so.
4. If anyone attempts to enter the premises, report this to the **PERSON IN CHARGE**.
5. Do not leave the door **UNATTENDED**.



## MEMBERS INTERESTS 2012

A Member with a non pecuniary or pecuniary interest in any business of the Council must disclose the existence and nature of that interest at commencement of consideration or when the interest becomes apparent.

Where sensitive information relating to an interest is not registered in the register, you must indicate that you have an interest, but need not disclose the sensitive information.

Please tick relevant boxes

## Notes

	General		
1.	I have a disclosable pecuniary interest.	<input type="checkbox"/>	You cannot speak or vote and must withdraw unless you have also ticked 5 below
2.	I have a non-pecuniary interest.	<input type="checkbox"/>	You may speak and vote
3.	<p>I have a pecuniary interest <b>because</b></p> <p>it affects my financial position or the financial position of a connected person or, a body described in 10.1(1)(i) and (ii) <b>and</b> the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest</p> <p>or</p> <p>it relates to the determining of any approval consent, licence, permission or registration in relation to me or a connected person or, a body described in 10.1(1)(i) and (ii) <b>and</b> the interest is one which a member of the public with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice my judgement of the public interest</p>	<input type="checkbox"/>       <input type="checkbox"/>	<p>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</p>       <p>You cannot speak or vote and must withdraw unless you have also ticked 5 or 6 below</p>
4.	<p>I have a disclosable pecuniary interest (Dispensation 20/09/16) or a pecuniary interest but it relates to the functions of my Council in respect of:</p> <p>(i) Housing where I am a tenant of the Council, and those functions do not relate particularly to my tenancy or lease.</p> <p>(ii) school meals, or school transport and travelling expenses where I am a parent or guardian of a child in full time education, or are a parent governor of a school, and it does not relate particularly to the school which the child attends.</p> <p>(iii) Statutory sick pay where I am in receipt or entitled to receipt of such pay.</p> <p>(iv) An allowance, payment or indemnity given to Members</p> <p>(v) Any ceremonial honour given to Members</p> <p>(vi) Setting Council tax or a precept under the LGFA 1992</p>	<input type="checkbox"/>       <input type="checkbox"/>       <input type="checkbox"/>       <input type="checkbox"/>       <input type="checkbox"/>       <input type="checkbox"/>	<p>You may speak and vote</p>       <p>You may speak and vote</p>       <p>You may speak and vote</p>       <p>You may speak and vote</p>       <p>You may speak and vote</p>
5.	A Standards Committee dispensation applies (relevant lines in the budget – Dispensation 20/09/16 – 19/09/20)	<input type="checkbox"/>	See the terms of the dispensation
6.	I have a pecuniary interest in the business but I can attend to make representations, answer questions or give evidence as the public are also allowed to attend the meeting for the same purpose	<input type="checkbox"/>	You may speak but must leave the room once you have finished and cannot vote

**‘disclosable pecuniary interest’** (DPI) means an interest of a description specified below which is your interest, your spouse’s or civil partner’s or the interest of somebody who you are living with as a husband or wife, or as if you were civil partners and you are aware that that other person has the interest.

### Interest

Employment, office,  
trade, profession or  
vocation

### **Prescribed description**

Any employment, office, trade, profession or vocation carried on for profit or gain.

## Sponsorship

Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.

	This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest; "director" includes a member of the committee of management of an industrial and provident society;*

*"land" excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income; "M" means a member of a relevant authority;*

*"member" includes a co-opted member; "relevant authority" means the authority of which M is a member;*

*"relevant period" means the period of 12 months ending with the day on which M gives notice to the Monitoring Officer of a DPI;*

*"relevant person" means M or M's spouse or civil partner, a person with whom M is living as husband or wife or a person with whom M is living as if they were civil partners;*

*"securities" means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.*

**'non pecuniary interest'** means interests falling within the following descriptions:

- 10.1(1)(i) Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) Any body (a) exercising functions of a public nature; (b) directed to charitable purposes; or (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (iii) Any easement, servitude, interest or right in or over land which does not carry with it a right for you (alone or jointly with another) to occupy the land or to receive income.
- 10.2(2) A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a connected person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision.

**'a connected person'** means

- (a) a member of your family or any person with whom you have a close association, or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph 10.1(1)(i) or (ii).

**'body exercising functions of a public nature'** means

Regional and local development agencies, other government agencies, other Councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

A Member with a personal interest who has made an executive decision in relation to that matter must ensure any written statement of that decision records the existence and nature of that interest.

**NB** Section 21(13) of the LGA 2000 overrides any Code provisions to oblige an executive member to attend an overview and scrutiny meeting to answer questions.



# Agenda Item 6

## EMPLOYMENT APPEALS SUB-COMMITTEE

**TUESDAY, 20TH SEPTEMBER, 2016**

Start: 10.30am

Finish: 2.45pm

Councillors:	Devine (Chairman) Delaney (Vice Chairman) Kay
Officers:	Principal Solicitor (Mrs K Lovelady) Member Services/Civic Support Officer (Mrs J Brown) Human Resources Advisor (Ms K Roberts)
Parties to The Appeal:	Management Director of Housing and Inclusion (Mr B Livermore) Head of HR and Organisational Development (Interim) (Ms J Woods)
Appellant:	Employee Payroll Number 2900086
Appellant Advisors:	Unison Branch Secretary (Mr P Foster) Unison Area Organiser (Ms S Garry)

### **8 APOLOGIES**

There were no apologies for absence received.

### **9 MEMBERSHIP OF THE SUB - COMMITTEE**

There were no changes to Membership of the Committee.

### **10 URGENT BUSINESS, IF ANY INTRODUCED BY THE CHAIRMAN**

There were no items of Urgent Business.

### **11 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **12 EMPLOYMENT APPEALS PROCEDURE**

The Chairman referred to the above procedure.

### **13 EXCLUSION OF PRESS AND PUBLIC**

RESOLVED: That under Section 100 (A) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 2 (Identity of an individual) and Paragraph 4 (Labour Relations) Part 1 of Schedule 12A outweighs the public interest in disclosing the information.

### **14 APPEAL AGAINST OUTCOME OF DISCIPLINARY HEARING - EMPLOYMENT PAYROLL NUMBER 2900086**

The Chairman welcomed both parties to the meeting.

Members were informed that the Sub – Committee was meeting to consider an appeal by an employee of the Council against the outcome of a disciplinary hearing.

In considering the Appeal the Sub – Committee had before it the following documents:-

Management Statement of Case and Appendices.  
Appellant Statement of Case and Supporting Documents.

The Sub – Committee were also provided with a demonstration of the Councils CRM system from the Customer Services Manager.

The Sub – Committee, in accordance with the procedure heard the following aspect of the Appeal;

- i. An oral submission by Management.
- ii. An oral submission on behalf of the Appellant.
- iii. A summing up by Management and the Appellant's Representative.

Following the conclusion of summing up, both parties, together with the representative, withdrew from the meeting and the Sub – Committee gave consideration to their decision.

The Sub – Committee came to the following conclusion:-

RESOLVED: That the Appeal be dismissed.

# Agenda Item 7

## LICENSING & APPEALS COMMITTEE

**HELD: Tuesday, 6 December 2016**

Start: 7.30 pm  
Finish: 9.30 pm

### **PRESENT:**

Councillor: T Devine (Chairman)

Councillors:	N Delaney	C Evans
	J Kay	D McKay
	J Mee	R Melling
	M Mills	G Owen
	A Owens	K Wright

In attendance: Councillor Moran (Leader) – Agenda Item 11 only

Officers: Commercial, Safety and Licensing Manager (Mr P Charlson)  
Principal Solicitor (Mrs K Lovelady)  
Senior Licensing Officer (Mrs M Murray)  
Senior Licensing Officer (Mrs S Jordan)  
Member Services/Civic Support Officer (Mrs J Brown)

### 46 **APOLOGIES**

There were no apologies for absence received.

### 47 **MEMBERSHIP OF THE COMMITTEE**

There were no changes to membership of the Committee.

### 48 **URGENT BUSINESS**

There were no urgent items of business.

### 49 **DECLARATION OF PARTY WHIP**

There were no declarations of Party Whip.

### 50 **DECLARATION OF INTEREST**

There were no declarations of interest.

### 51 **MINUTES OF SUB - COMMITTEES OR WORKING GROUPS**

There were no minutes to receive.

### 52 **MINUTES**

RESOLVED: That the Minutes of the meeting held on 11 October 2016 be received as a correct record and signed by the Chairman.

**53 LICENSING FEES AND CHARGES 2017/18**

Consideration was given to the report of the Director of Leisure and Wellbeing as contained on pages 227 to 234 of the Book of Reports, the purpose of which was to consider proposed changes in licensing fees and charges for the period 1 April 2017 to 31 March 2018.

The Commercial, Safety and Licensing Manager outlined the report to Members and responded to questions and comments raised by Members.

- RESOLVED A. That with effect from 1 April 2017, the proposed changes in Hackney Carriage and Private Hire licensing fees and charges contained in Table 1 of the report be approved.
- B. That delegated authority is granted to the Director of Leisure and Wellbeing Services to give notice under Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 of the Council's intention to vary the fees and charges for vehicle, driver and operator licences.
- C. That with effect from 1 April 2017, the proposed fees and charges contained in Table 2 of the report be approved.

**54 EXCLUSION OF PRESS AND PUBLIC**

RESOLVED: That under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 2 (Identity of an individual) and Paragraph 7 (Criminal Matters) part 1 of Schedule 12A outweighs the public interest in disclosing the information.

**55 APPLICATION FOR EXEMPTION FROM PRIVATE HIRE VEHICLE LICENCE REQUIREMENT (EXECUTIVE VEHICLES) - WK/000222412**

Members were asked to consider a request to licence a Private Hire Vehicle that does not meet the criteria for vehicle window tint within the Hackney Carriage & Private Hire Statement of Licencing Policy 2016.

The Applicant attended the meeting and presented his case to Members, following which, questions and comments were made by the Committee in respect of the Application.

RESOLVED: That Application Number WK/000222412 be REFUSED.

**56 APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - WK/000222637**

Members were asked to consider an Application for a Private Hire Driver Licence Number WK/000222637 having regard to the content of the Statutory Declaration that accompanied the Application Form and any other relevant information including the supplementary information as contained on pages 277 to 278 of the Book of Reports.

The Applicant attended the meeting with his wife and was interviewed by the Committee during which the Applicant was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Private Hire Driver Licence Number WK/000222637 be REFUSED.

(Note 1: The Leader was in attendance for this item only and did not participate in the meeting)

(Note 2: The Leader and Officers from Leisure and Wellbeing Services left the meeting as Members considered their decision in this case).

**57 APPLICATION FOR PRIVATE HIRE DRIVER LICENCE - WK/000221010**

Members were asked to consider an Application for a Private Hire Driver Licence Number WK/000221010 having regard to the content of the Statutory Declaration that accompanied the Application Form and any other relevant information.

The Applicant attended the meeting and was interviewed by the Committee during which the Applicant was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Private Hire Driver Licence Number WK/000221010 be GRANTED.

(Note: The Officers from Leisure and Wellbeing Services left the meeting as Members considered their decision in this case).

**58 APPLICATION FOR HACKNEY CARRIAGE DRIVER LICENCE - WK/000222068**

Members were asked to consider an Application for a Hackney Carriage Driver Licence Number WK/000222068 having regard to the content of the Statutory Declaration Form and any other relevant information.

The Applicant attended the meeting and was interviewed by the Committee during which the Applicant was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That Hackney Carriage Driver Licence Number WK/000222068 be REFUSED.

(Note: The Officers from Leisure and Wellbeing Services left the meeting as Members considered their decision in this case).

59 **PRIVATE HIRE DRIVER - DETERMINATION OF EXISTING LICENCE  
WK/000223737**

Members were asked to consider a Private Hire Driver Licence having regard to the complaint received about the Driver – reference WK/000223737.

The Driver attended the meeting and was interviewed by the Committee during which the Driver was advised of his right of appeal to the Magistrates Court if he was aggrieved by the decision.

RESOLVED: That the Private Hire Driver Licence be REVOKED – reference WK/000223737.

(Note: The Officers from Leisure and Wellbeing Services left the meeting as Members considered their decision in this case).

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**Chairman**

# Agenda Item 8



**LICENSING & APPEALS  
COMMITTEE:  
7 February 2017**

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**Report of: Director of Leisure and Wellbeing Services**

**Contact for further information: Paul Charlson (ext 5246)  
(E-mail: [paul.charlson@westlancs.gov.uk](mailto:paul.charlson@westlancs.gov.uk))**

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**SUBJECT: LICENSING FEES & CHARGES 2017/18**

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Wards affected: Borough wide

## **1.0 PURPOSE OF REPORT**

- 1.1 To consider revised proposed changes in licensing fees and charges for the period 1 April 2017 to 31 March 2018 following a decision of the European Court of Justice.

## **2.0 RECOMMENDATIONS**

- 2.1 That with effect from the 1 April 2017, the proposed changes in Hackney Carriage and Private Hire licensing fees and charges contained in Table 1 in this report is approved.
- 2.2 If the recommendation at Paragraph 2.1 is approved, that delegated authority is granted to the Director of Leisure and Wellbeing Services to give notice under Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 of the Council's intention to vary the fees and charges for vehicle, driver and operator licences.
- 2.3 That with effect from the 1 April 2017, the proposed fees and charges contained in Table 2 in this report is approved.
- 2.4 If the recommendations at Paragraph 2.1 and 2.3 are approved, that delegated authority is granted to the Director of Leisure and Wellbeing Services to amend those licences referenced in this report and related Policies so that the payment of the licence fee relating to the cost of administering and enforcing the relevant licensing framework (successful application fee) is made a condition of that licence.

### 3.0 BACKGROUND

- 3.1 Members will recall the report to this Committee on 6 December 2016, which was approved at that time.
- 3.2 However, a decision of the European Court of Justice (ECJ), published by the Local Government Association since this matter was reported to Members in December 2016, requires that the previously proposed licence fee structure be amended.

### 4.0 ISSUES

- 4.1 Reference to the landmark Supreme Court case of R (on the application of Hemming and Others) v Westminster City Council [2015] UKSC215 has been made in previous reports to Members regarding the setting of licensing fees.
- 4.2 Members will recall the case originally related to licensing fees for sex establishments, but has since had much wider implications in determining the correct interpretation of the 2006 EU Services Directive, which is applied in the UK by the Provision of Services Regulations 2009. The Supreme Court had overturned an earlier Court of Appeal ruling by concluding that the Services Directive 2006 does not prevent licensing authorities from charging licence fees that are proportionate to the cost of administering and enforcing the relevant licensing framework.
- 4.3 In making its decision, the Supreme Court identified two different approaches to charging fees:
- Whereby a council charged a fee upon application (covering the cost of authorisation procedures) and a subsequent fee to successful applicants (covering the cost of administering and enforcing the framework) - the 'type A' approach, or;
  - Where a council charged a single fee on application covering all costs, on the basis that the relevant proportion of the fee would be refunded to unsuccessful applicants – the 'type B' approach.
- 4.4 The Supreme Court found that both approaches were permissible under the Services Directive. Accordingly, Members will be aware that the Council, like many other authorities, adopted the 'type B' approach as this was considered to be the most practical method to administer. However, the Supreme Court sought an opinion from the ECJ regarding how such fees should be levied. Specifically, whether a 'type B' approach to fee setting is compatible with the Services Directive.
- 4.5 The ECJ ruling states that the 'type B' approach of fee setting is not compatible with the Services Directive, arguing that the Directive '*precludes the requirement for the payment of a fee, at the time of submitting an application for the grant or renewal of an authorisation, part of which corresponds to the costs relating to the management and enforcement of the authorisation scheme concerned, even if that part is refundable if that application is refused.*'



4.6 Accordingly, this report is presented to Members to allow the proposed licence fees for 2017/18 to be amended to ensure compliance with the 'type A' approach. Taking this into account, only slight differences have been made to a minority of individual total licence fees to that presented to Members in December 2016; however the composition of each fee and the manner in which fees are administered has changed. Members will note that each licence fee comprises of an initial application fee, which will be charged on application and relates solely to the cost of authorisation procedures (i.e. the costs associated with reviewing an application and granting / refusing a licence), and a successful application fee that relates to the cost of administering and enforcing the relevant licensing framework.

4.7 It is also worth noting that the Supreme Court view was that there is nothing to stop licensing authorities making the successful application fee a condition of holding a licence. This would mean that authorities could withhold a licence until payment of the relevant fee had been received:

*'...nothing in article 13(2) precludes a licensing authority from charging a fee for the possession or retention of a licence, and making this licence conditional upon payment of such fee. Any such fee would however have to comply with the requirements, including that of proportionality, identified in section 2 of Chapter III and section 1 of Chapter IV. But there is no reason why it should not be set at a level enabling the authority to recover from licensed operators the full cost of running and enforcing the licensing scheme, including the costs of enforcement and proceedings against those operating sex establishments without licences.'*

4.8 Accordingly, and if Members approve the proposed fees contained in this report, a further recommendation seeks approval for delegated authority to the Director of Leisure and Wellbeing Services to amend those licences referenced in this report and related Policies so that the payment of the licence fee relating to the cost of administering and enforcing the relevant licensing framework is made a condition of that licence.

## 5.0 PROPOSED FEES

### 5.1 Hackney Carriage and Private Hire

The proposed changes in Hackney Carriage and Private Hire fees and charges are detailed in Table 1.

**Table 1**

<b>Driver Licence Applications – Hackney Carriage, Private Hire and Dual</b>			
	<b>Existing (2016/17)</b>	<b>Proposed (2017/18)</b>	<b>Proposed fee comprised of (a) initial fee; and (b) successful application fee</b>
Driver Licence New (3 year licence)*	£148.28	£149.57	N/A
Driver Licence Renewal (3 year licence)*	£98.86	£99.06	N/A
* Applications incur additional fees not set by the Council. These include online Disclosure and Barring Service (DBS) enhanced disclosure, medical examination and			

DVLA mandate. The online DBS service includes a £9.60 validation fee plus the cost of the disclosure.

**Vehicle Licence Applications – Hackney Carriage and Private Hire**

Hackney Carriage New (12 month licence - incl. plate)	£256.15	£211.71	(a) £84.91; (b) £126.80
Hackney Carriage Renewal (12 month licence - incl. plate)	£242.03	£199.82	(a) £73.02; (b) £126.80
Private Hire Vehicle New (12 month licence - incl. plate)	£229.56	£191.90	(a) £82.93; (b) £108.97
Private Hire Vehicle Renewal (12 month licence - incl. plate)	£215.44	£181.99	(a) £73.02; (b) £108.97
<b>Private Hire Operator Licence Applications (5 year licence):</b>			
1 - 10 Vehicles	£215.65	£178.29	(a) £99.04; (b) £79.25
11 - 20 Vehicles	£271.85	£275.37	(a) £102.06; (b) £173.31
21 - 30 Vehicles	£428.37	£432.86	(a) £115.87; (b) £316.99
31 - 40 Vehicles	£543.70	£549.74	(a) £123.88; (b) £425.86
41 - 50 Vehicles	£708.56	£711.23	(a) £156.49; (b) £554.74
Over 50 Vehicles	£808.37	£810.29	(a) £176.31; (b) £633.98
<b>Hackney Carriage and Private Hire Licensing – general</b>			
Transfer of Vehicle Licence (change of owner)	£16.48	£18.81	N/A
Replacement Vehicle Plate	£16.48	£18.81	N/A
Replacement Driver Badge	£16.48	£18.81	N/A
Duplicate Driver Licence	£16.48	£18.81	N/A
Duplicate Vehicle Licence	£16.48	£18.81	N/A
Re-sit Knowledge Test	£16.48	£18.81	N/A

5.2 Members should note that other fees are levied in addition to the relevant fee for Hackney Carriage and Private Hire licences, but these costs are dictated by third parties (for example, Disclosure and Barring Service (DBS) enhanced disclosure and medical examination) and are borne by the applicant.

5.3 If the Committee resolves to approve the fees detailed in Table 1, the Council is required to give notice under Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 of its intention to vary the fees and charges for vehicle, driver and operator licences. The Notice will be published in the local press, on the Council's website and in the Licensing Reception at Robert Hodge Centre. Objections against the proposed increases can be made within 28 days from the date of the Notice. If any objections are received, the matter will be reported back to the next meeting of the Committee for further consideration.

*Miscellaneous licences*

5.4 Table 2 details the proposed changes in the following licensing fees and charges for 2017/18.

<b>Table 2</b>	<b>Existing (2016/17)</b>	<b>Proposed (2017/18)</b>	<b>Proposed fee comprised of (a) initial fee; and (b) successful application fee</b>
<b>Street Trading</b>			
New application (12 month consent)	£359.88	£289.93	(a) £190.87; (b) £99.06
New application (6 month Occasional Consent)	£226.45	£202.31	(a) £142.87; (b) £59.44
New application (3 month Occasional Consent)	£133.22	£121.15	(a) £87.40; (b) £33.75
New application (7 day Occasional Consent)	£62.54	£56.57	(a) £29.04; (b) £27.53
Renewal (12 month consent)	£288.21	£243.12	(a) £144.06; (b) £99.06
Variation	£96.43	£94.12	(a) £44.69; (b) £49.43
Replacement Consent	£16.48	£18.81	N/A
<b>Sexual Entertainment Venue licence</b>			
New / renewal	£3,512.24	£2766.82	(a) £1624.58; (b) £1142.24
<b>Skin Piercing etc. registration</b>			
New registration	£105.31	£106.28	N/A
<b>Second Hand Goods Dealer registration</b>			
New registration	£82.38	£91.06	N/A
<b>Animal welfare licences – cat/dog boarding, dog breeding, pet shop</b>			
New / renewal (12 month licence)	£148.28	£163.31	(a) £103.87; (b) £59.44
<b>Animal welfare licences – riding establishment</b>			
New / renewal (+ vet fee) (12 month licence)	£232.67	£225.93	(a) £126.87; (b) £99.06
<b>Animal welfare licences – dangerous wild animals</b>			
New / renewal (+ vet fee) (2 year licence)	£259.15	£258.56	(a) £119.88; (b) £138.68
<b>Animal welfare licences – zoo</b>			
New / renewal (+ vet fee) (6 year licence)	£2,174.82	£2474.68	(a) £717.66; (b) £1757.02
<b>Scrap metal dealers</b>			
Site Licence New (3 year licence)	£280.09	£308.80	(a) £130.49; (b) £178.31
Site Licence Renewal (3 year licence)	-	£239.12	(a) £60.81; (b) £178.31
Additional named site on Site Licence (per site)	£181.05	£189.54	(a) £107.13; (b) £82.41

Collectors' Licence New	£131.81	£145.50	(a) £66.25; (b) £79.25
Collectors' Licence Renewal	-	£106.25	(a) £27.00; (b) £79.25
Site Licence Variation	£82.35	£91.06	(a) £51.44; (b) £39.62
Collectors' Licence Variation	£82.35	£91.06	(a) £51.44; (b) £39.62
Inconsequential administrative changes or replacement licence	£16.48	£18.81	N/A

## 6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 6.1 These services have the potential to impact upon many areas within the Community, particularly upon taxi services and the travelling public within West Lancashire. Therefore the proposal links with the following aspect of the Community Strategy: Transport (issue B).

## 7.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 Based on the current number of licences and income previously received, the estimated income from the abovementioned licence fees during 2017/18 remains unchanged from that estimated in the report of 6 December 2016 at £139,650. The corresponding estimated chargeable service cost of those licences is £140,586. As the budget for 2017/18 is yet to be agreed, exact service costs cannot be determined at time of writing this report. However, the estimated income is sufficient to match expenditure based on the current budget 2016/17.
- 7.2 The proposed fees detailed in this report may result in a variation in licence fee income, but this is only in relation to the cost of the relevant licensing regime. It must be demonstrated that licence fee income is reasonable and proportionate. Income must not significantly exceed licence costs and any resultant surplus or deficit is considered when setting the fees for the following year. These issues have been identified in the budgetary process and will receive due consideration.

## 8.0 RISK ASSESSMENT

- 8.1 The timing of the ECJ decision is frustrating, as this matter had already been presented to Members to allow sufficient time for implementation prior to the start of the 2017/18 financial year. If Members approve the recommendations contained in this report, and if there are no objections to the proposed fees, these will be implemented from 1 April 2017. However, if any objections are received, these will be determined by the Committee on 6 April 2017 and the resultant approved fees will be implemented from 7 April 2017.
- 8.2 The 2006 EU Services Directive, which is applied in the UK by the Provision of Services Regulations 2009, does not apply to taxis or gambling activities. However, Officers have taken the precautionary approach of adopting the

principles of the Hemming Case in all of the licence fees contained in this report, as future challenges can be expected. Nevertheless, the Council has a legal duty to carry out the functions of the legislation that dictates the proposed fees and charges contained in this report. Therefore the proposed fees and charges contained in this report are levied at a rate that serves to cover the costs to the Council. Accordingly, there is a potential impact upon the taxi trade, the travelling public and operators of the other licensed activities contained in this report.

- 8.3 Members should also note that the opinion of the Advocate General and the commentary contained in the judgement of the ECJ went beyond the specific issues that had been referred to it, which make further challenges on the issue of licensing fees highly likely. Of particular concern, both the opinion and the commentary in the ruling appear to reopen the issue of whether including the costs of administering and enforcing licensing regimes within licence fees is compatible with the Services Directive, with a strong indication that the Advocate General and ECJ believe it is not. While the Supreme Court's view on this issue remains in place at the current time, meaning councils can continue to include these costs in their licence fees, it seems inevitable that there will be a further challenge on this issue at some point in future. Members will be made aware of such implications should they arise.
- 8.4 It is possible that licensing authorities may receive claims for restitution following the ruling of the ECJ. Some opportunistic businesses and legal advisors are likely to seek reimbursement of the whole of previously paid 'type B' licence fees, on the grounds that they have now been ruled incompatible with the Services Directive. However, the only legitimate claim for restitution from 'type B' fees relates to the loss of interest that a licence holder can be deemed to have suffered by virtue of paying the entirety of the fee upfront, rather than the fee being split into two payments on application and on successfully being awarded a licence. Given that most licence fees levied by the Council are of relatively low value, a claim for such loss of interest is remote.

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### **Background Documents**

The following background documents (as defined in Section 100D (5) of the Local Government Act 1972) have been relied on to a material extent in preparing this Report.

None.


### **Equality Impact Assessment**

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report.

### **Appendices**

1. Equality Impact Assessment.

## Appendix 1

<h1 style="text-align: center;">Equality Impact Assessment Form</h1> 	
Directorate: Leisure and Wellbeing	Service: Licensing
Completed by: Paul Charlson	Date: 26/01/17
Subject Title: LICENSING FEES & CHARGES 2017/18	
<b>1. DESCRIPTION</b>	
Is a policy or strategy being produced or revised:	No <span style="float: right;"><i>*delete as appropriate</i></span>
Is a service being designed, redesigned or cutback:	No
Is a commissioning plan or contract specification being developed:	No
Is a budget being set or funding allocated:	No
Is a programme or project being planned:	No
Are recommendations being presented to senior managers and/or Councillors:	Yes
Does the activity contribute to meeting our duties under the Equality Act 2010 and Public Sector Equality Duty ( <b>Eliminating unlawful discrimination/harassment, advancing equality of opportunity, fostering good relations</b> ):	No
Details of the matter under consideration:	
<i>If you answered <b>Yes</b> to any of the above go straight to Section 3</i> <i>If you answered <b>No</b> to all the above please complete Section 2</i>	
<b>2. RELEVANCE</b>	
Does the work being carried out impact on service users, staff or Councillors (stakeholders):	No <span style="float: right;"><i>*delete as appropriate</i></span>
If <b>Yes</b> , provide details of how this impacts on service users, staff or Councillors (stakeholders): <i>If you answered <b>Yes</b> go to Section 3</i>	
If you answered <b>No</b> to both Sections 1 and 2 provide details of why there is no impact on these three groups: <i>You do not need to complete the rest of this form.</i>	
<b>3. EVIDENCE COLLECTION</b>	
Who does the work being carried out impact on, i.e. who is/are the stakeholder(s)?	All licence holders for which the Council can set the relevant licence fee.
If the work being carried out relates to a universal service, who needs or uses it most? (Is there any particular group affected more than others)?	All sections of the public and businesses use or operate the licences outlined in this report.
Which of the protected characteristics are most relevant to the work being carried out?	<span style="float: right;"><i>*delete as appropriate</i></span>

Age	No
Gender	No
Disability	No
Race and Culture	No
Sexual Orientation	No
Religion or Belief	No
Gender Reassignment	No
Marriage and Civil Partnership	No
Pregnancy and Maternity	No
<b>4. DATA ANALYSIS</b>	
In relation to the work being carried out, and the service/function in question, who is actually or currently using the service and why?	All sections of the public and businesses use or operate the licences outlined in this report.
What will the impact of the work being carried out be on usage/the stakeholders?	Revised fees for licence applications and on-going charges.
What are people's views about the services? Are some customers more satisfied than others, and if so what are the reasons? Can these be affected by the proposals?	The proposed fees for PH & HC licensing will be published in the local press and the Council's website. Any objections will be brought back to this Committee.
What sources of data including consultation results have you used to analyse the impact of the work being carried out on users/stakeholders with protected characteristics?	The proposed fees for PH & HC licensing will be published in the local press and the Council's website. Any objections will be brought back to this Committee.
If any further data/consultation is needed and is to be gathered, please specify:	N/A
<b>5. IMPACT OF DECISIONS</b>	
In what way will the changes impact on people with particular protected characteristics (either positively or negatively or in terms of disproportionate impact)?	None.
<b>6. CONSIDERING THE IMPACT</b>	
If there is a negative impact what action can be taken to mitigate it? (If it is not possible or desirable to take actions to reduce the impact, explain why this is the case (e.g. legislative or financial drivers etc.).	N/A
What actions do you plan to take to address any other issues above?	No actions  <i>If no actions are planned state no actions</i>
<b>7. MONITORING AND REVIEWING</b>	
When will this assessment be reviewed and who will	The proposed fees for PH & HC licensing will

review it?	be published in the local press and the Council's website. Any objections will be brought back to this Committee.
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# Agenda Item 10

By virtue of paragraph(s) 2, 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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# Agenda Item 11

By virtue of paragraph(s) 2, 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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# Agenda Item 12

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of the Local Government Act 1972.

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