

**If you would like any further information or have any special requirements in respect of this Meeting, please contact Lynda Eastwood, Democratic Services Officer (01507) 613421**

**Tel: (01507) 601111 Ext. 613421**

**Email: Lynda.eastwood@e-lindsey.gov.uk**

**Website: www.e-lindsey.gov.uk**

Date: Friday, 8 September 2023

Dear Councillor,

### **General Licensing Committee**

You are invited to attend a Meeting of the **General Licensing Committee** to be held at **the Hub, Mareham Road, Horncastle, Lincolnshire LN9 6PH** on **Monday, 18th September, 2023** at **2.00 pm**, for the transaction of the business set out in the attached Agenda.

The public and press may access the meeting via the following link <https://bit.ly/ELDCYT> where a livestream and subsequent recording of the meeting will be available or by attending the meeting.

Yours sincerely



Robert Barlow  
Chief Executive

### **Conservative**

Councillors Neil Jones (Vice-Chairman), Richard Avison, Stephen Evans, Carl Macey and Terry Taylor

### **District Independent/Liberal Democrat**

Councillor Sandra Campbell-Wardman (Chairman)

### **Labour**

Councillor Graham Cullen

### **East Lindsey Independent Group**

Councillors Darren Hobson, George Horton and Andrew Leonard



**Skegness Urban District Society (SUDS)**

Billy Brookes

# **GENERAL LICENSING COMMITTEE AGENDA**

## **Monday, 18 September 2023**

<b>Item</b>	<b>Subject</b>	<b>Page No.</b>
<b>1.</b>	<b>APOLOGIES FOR ABSENCE:</b>	
<b>2.</b>	<b>DISCLOSURE OF INTERESTS (IF ANY):</b>	
<b>3.</b>	<b>MINUTES:</b> To confirm the Open Minutes of the General Licensing Meeting held on 26 June 2023 (to follow).	To Follow
<b>4.</b>	<b>REVIEW OF MAXIMUM HACKNEY CARRIAGE FARE STRUCTURE:</b> Report of the Group Manager Public Protection.	1 - 18
<b>5.</b>	<b>EXCLUSION OF PUBLIC AND PRESS:</b> That under Section 100(A) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items on the grounds that, if they were present, there could be disclosed exempt information as defined at paragraphs 1, 2 and 7 of Part 1 of the Schedule 12A of the Act (as Amended).	
<b>6.</b>	<b>APPLICATION FOR PRIVATE HIRE DRIVER LICENCE:</b> Confidential report of the Group Manager Public Protection.	19 - 32
<b>7.</b>	<b>HACKNEY CARRIAGE &amp; PRIVATE HIRE DRIVER - RAPID RESPONSE PROCEDURE:</b> Confidential report of the Group Manager Public Protection.	33 - 40
<b>8.</b>	<b>DATE OF NEXT MEETING:</b> The programmed date for the next Meeting of this Committee will be 13 November 2023.	

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<b>REPORT TO:</b>	<b>GENERAL LICENSING COMMITTEE</b>
<b>DATE:</b>	<b>18 SEPTEMBER 2023</b>
<b>SUBJECT:</b>	<b>ANNUAL REVIEW OF THE MAXIMUM HACKNEY CARRIAGE FARE STRUCTURE</b>
<b>PURPOSE:</b>	To undertake the annual review of the maximum hackney carriage fare structure.
<b>REPORT OF:</b>	Group Manager Public Protection.
<b>REPORT AUTHOR:</b>	Mr Adrian Twiddy (Principal Licensing Officer)
<b>WARD(S) AFFECTED:</b>	All Wards.
<b>EXEMPT REPORT?</b>	<b>NO</b>

#### **SUMMARY**

To undertake the annual review of the maximum hackney carriage (taxi) fare structure. Members may wish to note that the last variation of the hackney carriage fare structure took place in June 2022. The 2023 annual fare review was previously considered by the General Licensing Committee on 13 March 2023. The decision of the Committee was not to make any variation of the fare structure at that time and to instead revisit the structure in September 2023.

The Council has received separate submissions from the Skegness Taxi Owners Association and the Skegness & District Taxi Drivers Association regarding the fare structure review. The submissions can be found at **Appendices B and C** of this Report. Both submissions are requesting an increase in the fare structure.

Officer advice is that the Committee should always be persuaded of the need to vary the fare structure before embarking on such a course of action. In reviewing the fare structure, the Committee should look to ensure customers receive a fair deal whilst ensuring that hackney carriage vehicle drivers are able to make a living working in the trade.

#### **RECOMMENDATIONS**

That the Committee consider the annual review of the maximum hackney carriage fare structure and make any amendments to the fare structure that it considers necessary.

Should the Committee decide to make amendments to the fare structure then any amendment will be subject to the necessary statutory notice being advertised and there being no objection from the public or the taxi trade.

#### **REASONS FOR RECOMMENDATIONS**

It is this Authority's policy to undertake an annual review of the fare structure with the review normally being programmed to take place in the January to March period. This fare review for 2023 has been adjourned from 13 March 2023.

#### **OTHER OPTIONS CONSIDERED**

There are no other options for consideration – it is this Authority's adopted policy to undertake an annual review of the fare structure.

### **1. BACKGROUND**

- 1.1. As the Licensing Authority the Council sets the maximum hackney carriage (taxi) fare structure (for hirings beginning and ending within the District) and it is unlawful to charge a rate above that set by the Authority. Members may wish to note that the Council cannot set a maximum fare structure for private hire vehicles.
- 1.2. Any proposed variation of the hackney carriage fare structure must be advertised by the Council in a local newspaper and a period of time allowed for objections. In addition, the Council must issue all hackney carriage vehicles with a new tariff card (to be displayed in the vehicle) when any change in the structure is enacted.
- 1.3. A copy of the present maximum fare structure is attached to the rear of this Report at **Appendix A**. The last variation of the fare structure was introduced in June 2022.
- 1.4. In June 2022 the Committee authorised the following changes to the fare structure:
  - The daytime flagfall (initial charge) part of the fare structure was amended from £3.40 for the first 800 yards to £4.00 for the first 1000 yards.
  - The fuel surcharge was reworded to come into play when the price of diesel fuel reaches £1.55 a litre and beyond – previously the threshold for its use was £1.40 a litre and beyond.
  - The call out fee was amended from 50p per mile to 75p per mile.
  - The extra passengers charge was amended from 25p for passengers 3 and 4 to 50p for passengers 3 and 4.
- 1.5. A request for a variation of the current fare structure has been received from the Skegness Taxi Owners Association (STOA). The STOA is asking for amendments to be made to the fare structure in relation to:

- The flagfall (the initial charge made for the hiring of the vehicle) and the fares for distance.
- The Sunday fare rate.
- The booking fee / call out charge.

A copy of the STOA request is attached at **Appendix B** of this Report.

1.6. The Skegness & District Taxi Drivers Association (SDTDA) have also requested that a variation be made to the fare structure. The SDTDA is asking for amendments to be made to the fare structure in relation to:

- The flagfall and the fares for distance.
- The booking fee / call out charge.

The SDTDA letter can be found at **Appendix C** of this Report. A submission has also been received from Mr A Hogg of Ambassador Taxis (Skegness) – which can be found at **Appendix D** of this Report.

1.7. When setting the maximum hackney carriage fare structure, the relevant legislation (the Local Government (Miscellaneous Provisions) Act 1976) does not stipulate the external factors to be taken into account and there is no limit on the amount of increase or variation.

1.8. **PLEASE NOTE:** This Report uses the online AA Fuel Price Report (see the weblink at the end of this Report) to determine the level of fuel prices. At the time of the drafting of this Report the prices on the AA webpage related to July 2023 – there was no summary of the August 2023 prices available. Should the August 2023 figures become available then the summary of prices will be presented to Members at the licensing meeting on 18 September 2023.

## 2. REPORT

2.1. The national rate of inflation is currently 6.4%. (July 2023 figure) – in January 2023 it was 8.8% and the rate in June 2022 was 9%.

2.2. Fuel Prices - In June 2022, when the last increase in the hackney carriage fare structure was determined, national diesel prices were around £1.96 per litre and unleaded fuel £1.89 per litre.

In July 2023 the national average fuel price was around £1.44 per litre of diesel and £1.44 per litre of unleaded fuel (July 2023 figures).

The national average supermarket price for one litre of diesel was around £1.42 and unleaded £1.41 (July 2023 figures).

East Midlands Area - Average Fuel Prices:

Month & Year	Cost of one litre of diesel	Cost of one litre of unleaded
June 2022	£1.88	£1.96
January 2023	£1.72	£1.50
July 2023	£1.45	£1.43

2.3. Tariff 1 - Daytime (Flagfall): The flagfall is the initial charge made for the hiring of the vehicle. The daytime flagfall at present is £4.00 for the first 1000 yards. Both the STOA and the SDTDA are asking for this to be amended to read as £4.50 for the first 880 yards.

2.4. Tariff 1 - Daytime (Fares for Distance): The current Tariff 1 (between 0700 Hrs and 2300 Hours) is 20 pence for each 190 yards (the unit charge) after the flagfall.

- The STOA is asking for this to be amended to read as 20 pence for each 176 yards.
- The SDTDA is asking for this to be amended to read as 20 pence for each 170 yards.

For Members information the following table shows the current Tariff 1 fares (flagfall plus fares for distance) that are currently in force within the East Lindsey District as compared with that requested by the STOA and the SDTDA:

Tariff 1 Daytime Rate	2 Miles £	3 Miles £	4 Miles £	Last Fare Increase
Present ELDC	6.80	8.60	10.40	June 2022
Requested STOA	7.00	9.00	11.00	
Requested SDTDA	7.20	9.20	11.40	

The national average for a 2-mile fare is £7.16 (September 2023 figures) compared with a current rate of £6.80 in the East Lindsey District – the rate requested by the STOA will result in a £7.00 fare at the two-mile mark and the SDTDA request will result in £7.20. The Lincolnshire average fare at the 2-mile mark is currently £6.72 (September 2023 figure).

2.5. Tariffs 2 and 3 (Fares for Distance) – Under the current fare structure the Tariff 2 (2300 to 0700 Hours) and Tariff 3 (Christmas and New Year) fares are a 50% increase in the Tariff 1 and a 100% increase in the Tariff 1 respectively. Both Associations are asking that this remains the same.

2.6. Fuel Surcharge – In 2008 the Committee considered ways to combat any rapid increase in fuel prices. To this end, the Committee adopted the use of a fuel surcharge within the maximum fare structure. The fuel surcharge to be added to a journey, when fuel prices hit a predetermined level – the purpose of the surcharge was to assist taxi proprietors in



meeting any rapid increase in fuel prices without the Licensing Committee having to undertake an urgent review.

- 2.7. The flat rate surcharge is currently 25p. This will be added to the fare structure for each incremental increase in fuel prices of 10 pence per litre, when diesel reaches £1.55 a litre and beyond. The advantage of this system is that taxi fares can react to increases and decreases in fuel costs instantly.
- 2.8. Both Associations have not submitted a request for a variation / change in the fuel surcharge.
- 2.9. Waiting Time: The waiting time aspect of the fare structure comes into play when the hired vehicle is stationary or moving at a negligible speed (e.g., in slow moving traffic). The current day rate waiting time is 20p for each period of 45 seconds. This equates to an hourly rate of £16.00. Both Associations are asking that this remains the same.
- 2.10. Extra Charges – Additional Persons: The current fare structure allows a flat rate charge for each person in excess of two. The current charge is worded: For each person in excess of two – 50p. There has been no request for any variation in this part of the fare structure from the two associations. However, Mr A Hogg of Ambassador Taxis has asked for an increase in the additional persons charge in respect of 7 and 8 seater vehicles – but he has not given an indication of what he feels that increase should.
- 2.11. Extra Charges – Booking Fee / Call Out Charge: The current fare structure allows a call out charge of 75p per mile – the wording is as follows:

*For each mile, or uncompleted part thereof, travelled by the carriage to a hirer “pick up” point at a stated place other than a hackney carriage stand or the proprietor’s normal base of operation. The customer must be told the amount of the booking fee at the time of booking.*

Both Associations wish the mileage rate on the call out charge to be increased from 75p to £1.00 per mile. In 2022 this Authority increased the call out charge from 50p to 75p per mile – at that time the Committee declined a request from the STOA for an increase to £1.00 per mile.

- 2.12. Sunday: The current fare structure does not treat Sunday as different to any other day of the week. The STOA wishes the daytime tariff for Sunday to be a 50% increase on the Tariff 1 rate. The SDTDA opposes any increase in the Sunday fare rate. Historically East Lindsey has been an Authority that does not permit an additional daytime charge on a Sunday. The STOA has made similar requests in relation to Sunday on previous fare reviews. In the past the Committee has not supported the request for a Sunday rate and have declined to treat Sunday as any different to the rest of the week. Some Lincolnshire Authorities do currently allow Sunday to be charged at a higher rate.

### **3. CONCLUSION**

3.1. All parties to this fare review will be naturally concerned for the welfare and economic wellbeing of those employed within the taxi trade. This will particularly be the case during this difficult economic time of high inflation and increased costs. However, the Committee should always be persuaded of the need to vary the fare structure before embarking on such a course of action. In reviewing the fare structure, the Committee should look to ensure customers receive a fair deal whilst ensuring that hackney carriage vehicle drivers are able to make a living working in the trade.

#### **EXPECTED BENEFITS TO THE PARTNERSHIP**

Not Applicable.

#### **IMPLICATIONS**

##### **SOUTH AND EAST LINCOLNSHIRE COUNCIL'S PARTNERSHIP**

There are no SELCP implications.

##### **CORPORATE PRIORITIES**

Taxi fares should be set at a level, which maintain the safety, security and welfare of the District's residents and visitors whilst at the same time looking to maintain the economic wellbeing of the taxi trade.

##### **STAFFING**

The processing of this fare review is being undertaken as part of the normal duties carried out by the Licensing Team and so there are no staffing implications.

##### **CONSTITUTIONAL AND LEGAL IMPLICATIONS**

1. Any proposed variation of the hackney carriage fare structure must be advertised and a period of time allowed for objections. If any objections are received, then the Committee must consider the objection(s) before introducing the proposed variation or amending the initial proposal to vary the fares. However, objectors do not have a legal right of audience before the Committee.
2. There is no legal requirement for the Council to advertise a decision not to increase the fare structure. Similarly, there is no legal right to submit an objection to a decision not to increase the fare structure.
3. There is no right of appeal to the Magistrates Court regarding a Licensing Authority's decision on the level of hackney carriage fares. However, any aggrieved person would have the option of applying for a judicial review of the decision or making a complaint to the Ombudsman.
4. In theory the Committee can decrease the maximum fare structure (or remove sections of the fare structure) if it is minded to do so.
5. All hackney carriage vehicles in the East Lindsey District must be installed with a taximeter. The taximeter must be set to display a fare not exceeding the maximum fare rate set by the Council. Therefore, proprietors may set a lower rate in the taximeter than the maximum rate set by the Council.

6. The law relating to the calibration of taximeters was clarified in 1983 by the case of R v Liverpool City Council, ex p Curzon Limited (1983). This case indicated that it was lawful for a proprietor to calibrate his taximeter to a lower fare than the maximum fare set by the Council. The Council can advise and encourage but it cannot legally require those proprietors to change their meters from a lower rate to the maximum rate.

7. If proprietors wish to calibrate to a lower rate, they can only charge that calibrated rate – it is not open for them to charge the maximum fare rate if they have not calibrated to that rate.

8. The Council's byelaws require hackney carriage vehicles to display, within the vehicle, the Council's current maximum fare card. Even if the taximeter is calibrated to a lower rate, the current maximum fare card must be displayed.

9. Individuals or organisations requesting a variation of the maximum fare structure do not have a legal right of audience before the Committee.

## **DATA PROTECTION**

There are no data protection implications arising from the recommendations of this Report.

## **FINANCIAL**

1. This fare review is being undertaken as part of the normal duties carried out by the Licensing Team with no additional costs involved.

2. Any proposed variation of the fare structure must be advertised in a local newspaper and a minimum period of 14 days allowed for the submission of objections. In addition, the Council must issue in the region of 130 new laminated tariff cards to all hackney carriage vehicles when any change in the structure is enacted.

3. There is a risk of judicial review against the Council or complaint to the Ombudsman if the Authority is found not to have exercised due diligence in the setting of hackney carriage fares

## **RISK MANAGEMENT**

There is a theoretical risk of civil action against the Council if they are found not to have exercised due diligence in licensing matters.

## **STAKEHOLDER / CONSULTATION / TIMESCALES**

Any proposed variation of the hackney carriage fare structure must be advertised and a period of time allowed for objections.

## **REPUTATION**

There is a risk that the Council's reputation could be damaged if licensing legislation and guidance are not upheld and applied appropriately.

## **CONTRACTS**

Not Applicable.

## **CRIME AND DISORDER**

There are no crime and disorder implications arising from the recommendations of this Report.

## **EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING**

**Equality Implications:** There are no equality implications arising from the recommendations of this Report.

**Human Rights:** The Licensing Authority must ensure that its decisions and policies can withstand scrutiny by reference to the principle of proportionality, i.e., is the decision / action / policy proportionate to what it wishes to achieve, or colloquially does the end justify the means.

**Safeguarding:** There are no safeguarding implications arising from the recommendations of this Report.

## **HEALTH AND WELL BEING**

Not Applicable.

## **CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

Not Applicable.

## **ACRONYMS**

STOA – Skegness Taxi Owners Association

SDTDA – Skegness & District Taxi Drivers Association

<b>APPENDICES</b>	
Appendices are listed below and attached to the back of the report:	
<b>APPENDIX A</b>	Copy of the Current Maximum Hackney Carriage Fare Structure.
<b>APPENDIX B</b>	Request for a Review of the Maximum Hackney Carriage Fare Structure from the STOA.
<b>APPENDIX C</b>	Request for a Review of the Maximum Hackney Carriage Fare Structure from the SDTDA.
<b>APPENDIX D</b>	Submission made by Mr A Hogg of Ambassador Taxis (Skegness).

<b>BACKGROUND PAPERS</b>
The National Hackney Fare Table – PHTM: <a href="https://www.phtm.co.uk/newspaper/taxi-fares-league-tables">https://www.phtm.co.uk/newspaper/taxi-fares-league-tables</a> AA Fuel Price Report: <a href="https://www.theaa.com/driving-advice/driving-costs/fuel-prices">https://www.theaa.com/driving-advice/driving-costs/fuel-prices</a> Inflation and Price Indices – Office for National Statistics: <a href="https://www.ons.gov.uk/economy/inflationandpriceindices">https://www.ons.gov.uk/economy/inflationandpriceindices</a>

<b>CHRONOLOGICAL HISTORY OF THIS REPORT</b>
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This 2023 annual fare review was previously considered by the General Licensing Committee on 13 March 2023. The decision of the Committee was not to make any variation of the fare structure at that time and to instead revisit the structure in September 2023.

**REPORT APPROVAL**

Report author:

Mr Adrian Twiddy (Principal Licensing Officer)

Tel. No. 01507 601111

Email: [adrian.twiddy@e-lindsey.gov.uk](mailto:adrian.twiddy@e-lindsey.gov.uk)

Signed off by:

Donna Hall (Group Manager Public Protection)

Tel. No. 01775 761161

Email: [donna.hall@sholland.gov.uk](mailto:donna.hall@sholland.gov.uk)

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# Maximum Hackney Carriage Fare Structure

The following are the MAXIMUM authorised charges payable within the District of East Lindsey for the hire of a hackney carriage vehicle

<b>TARIFF 1 (0700 – 2300 Hours)</b>	
If the distance does not exceed 1000 yards for the whole distance	£4.00
If the distance exceeds 1000 yards:	
- for the first 1000 yards	£4.00
- for each subsequent 190 yards (or uncompleted part thereof)	20p
WAITING TIME: For each period of 45 seconds	20p
<b>TARIFF 2 (2300 – 0700 Hours)</b>	
A 50% increase in Tariff 1	
<b>TARIFF 3 (The times indicated below)</b>	
A 100% increase in Tariff 1	
<b>EXTRA CHARGES:</b>	
- for any hirings on Bank and Public Holidays	Tariff 2
- between 0700 on 24th December to 1800 on 24th December	Tariff 2
- between 1800 on 24th December to 0700 on 27th December	Tariff 3
- between 0700 on 31st December to 1800 on 31st December	Tariff 2
- between 1800 on 31st December to 0700 on 2nd January	Tariff 3
- for each article of luggage (excluding hand luggage, perambulators and wheelchairs)	25p
- for each person in excess of two	50p
- If the price of diesel per litre (at the garage nominated by the Council) goes above £1.55	25p
- Each subsequent 10p increase in the price of diesel per litre (at the garage nominated by the Council) above £1.55	25p
- For each mile, or uncompleted part thereof, travelled by the carriage to a hirer "pick up" point at a stated place other than a hackney carriage stand or the proprietor's normal base of operation. The customer must be told the amount of the booking fee at the time of booking.	75p
- For each animal (subject to the driver's discretion) with the exception of assistance, guide or hearing dogs	£1.00
- Any toll or urban congestion charges incurred on the journey to be paid by the hirer.	
<b>SOILING CHARGE</b>	
A charge not exceeding £100.00 may be charged for soiling	

FARE LAST REVISED 7 JUNE 2022

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## **Skegness Taxi Owners Association.**

We are requesting the following proposed Tariff Increase be considered at the next available Committee Meeting:

That the starter rate on Tariff 1 at £4.00 for the 1<sup>st</sup> 880 yards down from 1000 yards.

20p for each subsequent 176 yards (or uncompleted part thereof) down from the current 190 yards.

This will make the initial mile £5 up from £4.80

Each mile thereafter £2 per mile up from £1.85

.

Tariff 2 & Tariff 3 stay as they are now at 50% & 100% increase respectively.

The call out fee be increased to £1.00 per mile or uncompleted part thereof.

Tariff 2 be implemented on Sundays.

On Tariff 1 this will make a 2-mile journey £7.00 a rise of **4.65%** from the current £6.65

We understand any increase in Tariff is not welcomed by the public but feel at present this is needed so operators can keep investing in our trade.

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## SKEGNESS & DISTRICT TAXI DRIVERS ASSOCIATION

### COMMITTEE MEMBERS

<b>Chairman</b>	<b>Stephen Gray</b>
<b>Deputy Chairman</b>	<b>Andrew Nadin</b>
<b>Treasurer</b>	<b>Rob Cabourn</b>
<b>Secretary</b>	<b>Catherine Booth</b>

6th September 2023.

Mr Twiddy

Proposal for increase to Maximum Hackney Carriage Fare structure as follows

The initial start off staying at £4.00 but the yardage decreasing,

If the distance does not exceed 880 for the whole distance £4.00

If the distance exceeds 880 yards

For the first 880 yards £4.00

For each subsequent 170 yards ( or uncompleted part there of ) 20p

Also would like to see increase to £1.00 for call out.

We Strongly oppose any increase to Sunday tariff.

Your Sincerely Stephen Gray.

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**DATE:** 04 September 2023

**FROM:** Lord Anthony Hogg

**Review of Maximum Hackney Carriage Fare Structure**

Good Morning

Thank you for the opportunity for us to make any comments about the fare review.

It is very hard for everyone to keep up with the raising cost of living. Especially the taxi drivers because we don't earn set wages a like other jobs. On a busy day, if we are lucky enough to meet a minimum national living wages otherwise we will earn less than a minimum national living wages. Because of this reason you will see some taxi drivers are had enough and leaving this career.

As you can imagine, a taxi driver is one of a special skills job and the cost to start up this career it is pretty high, its not many people can take up this type of work, considering on some career you can just walk into an interview today and start new job tomorrow.

Other hand, some of us still carry on with this career because we have been doing it for long time and we are pretty old to start others career and we still want to keep this taxi industry moving for generation and support our town and local communities as much as possible.

If you could do anything at all to support the life of taxi drivers to live on and keep up with raising cost of living please, it would be very much appreciated.

The cost of running of the larger vehicle i.e. 7/8 seaters are higher than 4 seaters but the fare structure are the same. If possible, could you considering the fare structure for larger vehicle to cover the running cost of this please?

Kind Regards

Ambassador Taxis

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**APPENDIX B****Relevant Extracts from the Council's Current Relevance of Convictions & Cautions Guidelines****1. Introduction**

1.1 The purpose of this policy is to provide guidance on the criteria taken into account by the Council (the Licensing Authority) when determining whether or not an applicant or an existing licence holder is a fit and proper person to hold a hackney carriage and/or private hire vehicle driver's licence. The policy also relates to applicants for a private hire vehicle operator licence and holders of a current private hire vehicle operator licence.

1.2 In drafting and adopting these guidelines the Licensing Authority took into consideration the Statutory Taxi & Private Hire Vehicle Standards issued by the Department of Transport in July 2020.

1.3 The purpose of setting guidelines and standards is to protect children and vulnerable adults, and by extension the wider public, when using hackney carriages and private hire vehicles.

1.4 The overriding aim of the Licensing Authority is to protect the safety of the public. The Licensing Authority is concerned to ensure:

- That a person is a fit and proper person
- That the person does not pose a threat to the public
- That the public are safeguarded from dishonest persons
- The safeguarding of children, young persons and vulnerable adults

1.5 This policy provides guidance to any person with an interest in hackney carriage and private hire licensing. In particular, but not exclusively:

- Applicants for drivers and operator licences
- Existing licensed drivers and operators whose licences are being reviewed
- Licensing Officers
- Members of the Council's Licensing Committee
- Magistrates hearing appeals against Local Authority decisions

1.6 The Licensing Authority has a duty to ensure that any person to whom it grants a hackney carriage or private hire vehicle driver's licence is a 'fit and proper' person to be a licence holder. Where appropriate and when considering whether an applicant or licensee is fit and proper may decide to pose itself the following question:

*Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?*

1.7 If, on the balance of probabilities, the answer to the above question is 'No', the individual will not be granted or hold a licence.

1.8 Licensing Authorities have to make difficult decisions but the safeguarding of the public is paramount. All decisions on the suitability of a licence applicant or licence holder will be made on the balance of probability. This means that an applicant or licence holder will not be 'given the benefit of doubt'. If the Licensing Authority is only "50/50" as to whether the applicant or licence holder is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

1.9 In considering an individual's criminal record, this Authority will consider each case on its merits, but it will take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime.

1.10 Where Licensing Officers have delegated powers to grant licences, they will utilise these guidelines when making a decision whether or not to grant a licence. Should there be any doubt, in the Officer's opinion, as to whether the applicant is a 'fit and proper' person, then the application will not be granted under delegated powers. Such applications will be referred to the Council's Licensing Committee (consisting of Councillors) for determination. Whilst Officers and the Licensing Committee will have regard to the guidelines contained in the policy, each case will be considered on its individual merits and, where the circumstances demand, the Committee or Officer may depart from the guidelines, as long as the reasons for doing so are recorded in the decision.

## 2. General Policy

2.1 There may be occasions where it is appropriate to depart from the guidelines, for example, where the offence is a one-off occasion or there are mitigating circumstances. However, the overriding consideration should always be the protection of the public.

2.2 A person with a relevant conviction need not be automatically barred from obtaining a licence, but would be expected to show adequate evidence that he or she is a fit and proper person to hold a licence (the onus is on the applicant to produce such evidence). Simply remaining free of conviction may not generally be regarded as adequate evidence that a person is a fit and proper person to hold a licence.

2.3 A series of offences over a period of time is more likely to give cause for concern than an isolated, minor conviction. A serious view will be taken when an applicant shows a pattern of offending and unfitness.

2.4 Where an applicant has been convicted of a criminal offence, the Licensing Authority cannot review the merits of the conviction (*see Nottingham City Council v. Mohammed Farooq (1998)*) and, for instance, determine that the applicant should never have been convicted.

2.5 Persons with a conviction(s) for any sexual offence or connected with illegal sexual activity or any other very serious crime will not be issued with a licence.

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2.7 **Cautions** - Adult cautions are not regarded as convictions, but being admissions of guilt, may be taken into consideration by the Licensing Authority.

.....

## 6. Consideration of Disclosed Criminal History

6.1 Under the provisions of Sections 51, 55, and 59, Local Government (Miscellaneous Provisions) Act 1976, the Licensing Authority is required to ensure that an applicant for the grant or

renewal of a hackney carriage and/or a private hire vehicle drivers' licence and/or private hire vehicle operators licence is a 'fit and proper' person to hold such a licence. The Authority must not grant a licence unless it is satisfied that the applicant is a fit and proper person to hold it.

6.2 All conviction(s), criminal findings of guilt (including fixed penalty ticket(s)), caution(s) and warning(s), whether for motoring or other offences and County Court Judgment(s)/Order(s) (*where the judgment or order relates to a debt or charge to another Hackney Carriage/Private Hire driver, owner or operator*) may potentially be taken into account when deciding to grant a licence or on a review after the issue of a licence. During the currency of a licence the licence holder should, immediately after being told that/she is being reported for an offence, being arrested, convicted or has admitted guilt (including fixed penalty notice(s)), caution(s) and/or warning(s), advise the Licensing Authority of this information in writing.

6.3 The Licensing Authority will consider:

- How relevant the offence(s) are to the licence being applied for (or licence being reviewed)
- How serious the offence(s) were
- When the offence(s) were committed
- The date of conviction
- Sentence imposed by the court
- The applicant's age at the time of conviction.
- Whether they form part of a pattern of offending
- Any other character check considered reasonable (*e.g. personal references*)
- Any other relevant factors

.....

## 7 Offences Involving Violence.....

7.1 Licensed drivers have close regular contact with the public. A firm line will be taken with those who have convictions for offences involving violence.

.....

7.7 A licence will not normally be granted where the applicant has a conviction for an offence below (or similar offence(s) which replace the below offences) or any offence of attempting, conspiring to commit, aiding and abetting or procuring such offence and the conviction is less than 3 years prior to the date of application:

- Common assault

.....

7.7 In the event of a licence being granted, a strict warning both verbally and in writing will be administered.

## 26 Conclusion

26.1 To conclude, a criminal history in itself may not automatically result in refusal and a current conviction for a serious crime need not bar an applicant permanently from becoming licensed. As

the preceding paragraphs indicate, in most cases, an applicant will be expected to remain free from conviction for 3 to 10 years, according to circumstances, before an application can be considered.

26.2 While it is possible that an applicant may have a number of convictions that, individually, would not prevent him/her being licensed, the overall offending history will be considered when assessing an applicant's suitability to be licensed. A series of offences over a period of time is more likely to give cause for concern than an isolated minor conviction. Obviously some discretion may be afforded if an offence is isolated and there are mitigating circumstances, but the overriding consideration is the protection of the public. This consideration is vital because taxi and private hire licence holders have unprecedented access to the public and are in a position to exercise control over an individual (including children and vulnerable adults).

26.3 A man or woman who has committed an offence and has to wait a period of time before being accepted as a hackney carriage or private hire vehicle driver (or operator) is more likely to value his/her licence and act accordingly.

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