

CANNOCK CHASE COUNCIL

COUNCIL

6 APRIL 2011

REPORT OF THE CORPORATE DIRECTOR

RESPONSIBLE PORTFOLIO LEADER: ENVIRONMENT

POLICY RE: TRANSFER OF HACKNEY CARRIAGE/PRIVATE HIRE VEHICLE LICENCES

KEY DECISION – YES

1. Purpose of Report

- 1.1 To seek approval for the introduction of a Policy whereby on payment of an administration fee, a Hackney Carriage Proprietor and a Private Hire Operator can transfer a vehicle licence from one vehicle to a replacement vehicle, receiving a pro-rata refund of licence fees to be set against the annual application fee for the replacement vehicle.
- 1.2 To seek approval, or otherwise, to a request for the introduction of such a policy to be applied retrospectively to all such transfers during 2010/11 or to specific transfer requests made during 2010/11.

Formatted: Bullets and Numbering

2. Recommendations

- 2.1 That a Policy be introduced with immediate effect, whereby on application, a licence pertaining to a Hackney Carriage or Private Hire vehicle can be transferred to a replacement vehicle that fulfils the Council's criteria for licensing.
- 2.2 That the process for transfer shall involve a pro-rata refund of the element of the licence fee paid, calculated from the days remaining on the licence and rounded down to the nearest £1 and this figure shall be set against the fee payable for a 12 month licence in respect of the replacement vehicle.
- 2.3 That an administration fee of £25, subject to annual review as part of the fees and charges process, shall be applied to all requests for transfer, regardless of their success.
- 2.4 That for the avoidance of doubt, the Policy shall only apply to situations where a replacement vehicle is licensed and if an application for transfer is unsuccessful, or withdrawn, then no refund is due but the administration fee is payable.
- 2.5 That members determine whether the element of reimbursement (less the administration fee) should be applied or not be applied retrospectively to all such transfers during 2010/11 or specific requests for reimbursement in this regard made during 2010/11.

3. Summary (inc. brief overview of relevant background history)

- 3.1 The provisions for licensing Hackney Carriage and Private Hire Vehicles are contained within the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976. (The 1976 Act).
- 3.2 Section 70(b) of the 1976 Act provides for the Council to remit whole or part of a Private Hire Vehicle and Private Operator's Licence in any case in which they think it appropriate to do so.
- 3.3 There is no such provision in respect of Hackney Carriage Vehicle Licences, known as Proprietor Licences, although Section 49 of the 1976 Act does allow for the transfer of such a licence from one owner to another.
- 3.4 By introducing such a Policy, it will bring reasonable consistency of approach to this element of licensing Hackney Carriage and Private Hire Vehicles.

4. Key Issues and Implications

- 4.1 Requests for the transfer of licences from one Hackney Carriage to another in the same ownership on replacement of a vehicle, and for the reimbursement of the licence fee paid, pro rata, have been made and refused. This is because of the lack of legal authority and absence of an approved Policy which would authorise this and would allow for the exercise of discretion to transfer fees.
- 4.2 If Members are minded to agree a Policy which authorises such transfers, then a decision is required to be made as to whether or not to exercise discretion in applying it retrospectively to all such transfers or to specific requests made during 2010/11.
- 4.3 If the Policy is approved and adopted, then it is proposed to levy an administration fee to applications, initially £25 but subject to annual review, to ensure full cost recovery of its administration.
- 4.4 Whilst the level of specific requests to date is low – only 2 in 2010/11 – it is anticipated that by offering such a facility, Proprietors will make use of it to change vehicles on a more regular basis.
- 4.5 Proprietors who successfully apply for a transfer would have to pay the full cost of a vehicle test and inspection and replacement licence plates for the replacement vehicle.
- 4.6 It is not intended to apply this Policy where a Proprietor is forfeiting their licence rather than licensing another vehicle.

5. Conclusions and Reasons for the Recommendations

- 5.1 The legislation draws a distinction between Hackney Carriages and Private Hire Vehicles for the remittance of part of a licence fee which is no longer appropriate.
- 5.2 It is not considered to be equitable to allow for discretion to be applied to remittance in respect of Private Hire Operator and Vehicle Licences but not Hackney Carriage Vehicle (Proprietor) Licences.

- 5.3 The introduction of a Policy to allow this discretion to apply where a replacement vehicle is licensed is considered to be reasonable, and will support the Hackney Carriage and Private Hire trade in the current economic difficulties.
- 5.4 The requirement for there to be an administration fee, regardless of the success of the application to transfer, is to cover the Council's costs.
- 5.5 Because of the issue of reduced income to the Council, a decision on whether to apply any Policy retrospectively to all requests for transfer or specific requests from Proprietors during 2010/11 for pro rata refunds of licence fees where replacement vehicles have been licensed is requested.

6. Other Options Considered

- 6.1 The alternative to the introduction of a Policy is to retain the Status Quo and reject any application for reimbursement of licence fees in respect of Hackney Carriage Vehicle (Proprietor) Licences.

7. Report Author Details

K.J. Sulway, Environmental Protection Manager (ext. 4480).

SCHEDULE OF ADDITIONAL INFORMATION

INDEX

Contribution to Council Priorities (i.e. CHASE, Corporate Priorities)	Section 1
Contribution to Promoting Community Engagement	Section 2
Financial Implications	Section 3
Legal Implications	Section 4
Human Resource Implications	Section 5
Section 17 (Crime Prevention)	Section 6
Human Rights Act Implications	Section 7
Data Protection Act Implications	Section 8
Risk Management Implications	Section 9
Equality and Diversity Implications	Section 10
List of Background Papers	Section 11
Report History	Section 12
Annexes to the Report i.e. copies of correspondence, plans etc.	Annex 1, 2, 3 etc.

Section 1

Contribution to Council Priorities (i.e. CHASE, Corporate Priorities)

By bringing Hackney Carriage Vehicle (Proprietor) Licences into line with the statutory provision for Private Hire Vehicles and Operators Licences, all businesses in the Hackney Carriage/Private Hire trade will be treated the same and this will contribute to economic growth.

Section 2

Contribution to Promoting Community Engagement

This proposed Policy has resulted from feedback from Hackney Carriage Proprietors.

Section 3

Financial Implications

Based on the number of surrendered licences in 2010-11, if this policy is implemented it could cost the Council in the region of £1,550 p.a. in refunded fees, but this could be off-set by an increase in applications for new licences if proprietors change their vehicle more often. The current Licence fee is £214.60p.a. which is £17.88 per month (£0.587945 per day), therefore, bearing in mind the £25.00 administration fee, the unexpired portion of the licence of more than 43 days would be applicable for refund when their replacement vehicle had been inspected and awarded a licence.

So far this year only one application for refund has been received in respect of two licences so if retrospective refunds are approved for these specific requests this would cost the Council £270.00 (£320.00 less £50 Administration Fees). If this policy were applied retrospectively to cover all transfers of surrendered licences this year the cost would be £1,552.00.

At 24th February the Licensing income for these licences is approx £3,000 above current budgets and the Licensing Service as a whole will probably be in credit by the year end.

Section 4

Legal Implications

The 1976 Act clearly stipulates the statutory responsibility of this authority to approve any fees or charges and the procedure that must be followed. If the Council does not comply with the Act it will be acting unlawfully and could be open to legal challenge.

Section 5

Human Resource Implications

Administration can be accommodated within existing resources.

Section 6

Section 17 (Crime Prevention)

The overall licensing regime is one of public protection. There are no specific Section 17 implications resulting from this proposal.

Section 7

Human Rights Act Implications

The proposal seeks to apply consistency across Hackney Carriage and Private Hire Licensing. All applications for the transfer of licenses to replacement vehicles will be judged on their merits, having regard to the licensing criteria.

Section 8

Data Protection Act Implications

Information regarding Hackney Carriage and Private Hire Licenses is held on Public Register.

Section 9

Risk Management Implications

Failure to introduce this Policy could result in Hackney Carriage Proprietors moving to adjoining Local Authorities where such provision is allowed.

Section 10

Equality and Diversity Implications

Consistency of approach will remove the current inequality of Hackney Carriage Vehicle (Proprietor) Licences compared with Private Hire Vehicle and Operator Licences with respect to applying discretion to remit part of the licence fee.

Section 11

List of Background Papers

Local Government (Miscellaneous Provisions) Act 1976.

Section 12

Report History

DMT – (TBA).

Annexes

None.