

The Principal Licensing Officer
Public Protection
Telford & Wrekin Council
Darby House
Lawn Central
Telford
TF3 4JA

Our Ref: DBW
Your Ref:
Date: 31 March 2012
Please ask for: David Wilson

**By First Class post and email to:
suzanne.fisher@telford.gov.uk**

Dear Sir,

**Objection to the proposal to amend hackney carriage and private hire licensing fees
Local Government (Miscellaneous Provisions) Act 1976, sections 53(2) and 70**

I am instructed by County Cars Ltd, Diamond Cars (Telford) Ltd and Ultimate Taxis Ltd to object to the proposal to amend hackney carriage and private hire licensing fees, because the proposals would result in the Council charging fees that were not set within the statutory constraints of sections 53(2) and 70 of the Local Government (Miscellaneous Provisions) Act 1976.

In that regard, I enclose a redacted copy of the Audit Commission letter of 23 August 2011 in respect of objections made to the accounts of Barnsley Metropolitan Borough Council in relation to the hackney carriage and private hire licensing fees set by that council in 2009.

Like Barnsley Metropolitan Borough Council, I note that nowhere within the report presented to Licensing Committee on 13 March 2012 did officers make any reference to the statutory provisions and constraints. Indeed, even the author of the "legal comment" fails to identify the statutory provisions, let alone their meaning and effect.

I also note that like Barnsley Metropolitan Borough Council, the report, despite its many appendices, fails to show fees calculated on the basis of the amount of time taken to deal with a particular type of licence, subject to only charging for that which may be charged.

With the greatest of respect, may I draw an analogy to cakes? It seems as though officers have decided on the type and size of their cake (large revenue) and then decided how they wish for the cost of that cake to be divided between the different licence types and other fees. Whereas, what they should do, is ascertain the amount of time spent by different grades of officer (quantity and type of ingredient) in dealing with a particular type of licence or fee in order to establish the type and size of the cake.

On the subject of size, it is noted that there are 13 different grades of officer referred to within the report and its appendices, but no indication of the numbers of officers of each grade. Despite the absence of that detail, it cannot be necessary or reasonable to have such a large staff to administer a reasonable small (and decreasing) hackney carriage and private hire fleet. Licensing Committee is respectfully asked to ascertain for itself the number and grades of officers actually working now within hackney carriage and private hire licensing, because it is suspected that the data provided refers to a previous year.

In its letter to Barnsley Metropolitan Borough Council, the Audit Commission stated (page 4, paragraph 1):

“The Council's method of calculating the specific categories of fee made no link to the costs recoverable by those fees as described in the Act. In particular the distinction between control and supervision costs recoverable under s.70, but not provided for under s.53, has not been made when setting each category of fee.”

By way of example, section 70 provides for the costs of “control and supervision” to be recovered as part of the fees charged for vehicle licences, whereas section 50 does not include such a provision in relation to driver licences.

In the circumstances, the fee charged for the grant of a driver's licence, whether it be to drive a hackney carriage and / or private hire vehicle and whether it is for 6 months, a year or 3 years should all be the same, because the process and costs of issuing a driver licence is exactly the same, irrespective of the period for which it is to be valid.

However, currently the Council proposes to charge fees of between £105 for a 6 month hackney carriage or private hire vehicle driver licence up to £690 for a 3 year dual licence. The difference in charges suggest that the Council proposes to unlawfully charge for “control and supervision” for the duration of the licence, which it cannot do, although it may, if it chooses, carry out such “control and supervision” as it wishes at its own expense.

In relation to vehicle licensing, a council may charge for “control and supervision” for the duration of the licence. It is proposed to increase the 12 month licence fee for a vehicle to £195 and a 6 month licence to £105.

On the basis that the only difference between the two licences is the duration for which they shall be granted, we can back-calculate the fee for the grant of the licences and the amount charged per month for “control and supervision”.

The difference in fee between a 6 month licence and a 12 month licence is £90 (£195 - £105). The £90 difference is only capable of being the costs for the extra 6 months of “control and supervision”, so the cost per month for “control and supervision” is £15 (£90 divided by 6 months).

If we take the charge of £15 per month for “control and supervision” of the cost of the licences for the two periods of 6 months and 12 months, we should be left with the same

charge for the grant of the licence, because, of course, the process is the same irrespective of whether a licence is for 6 months or 12 months.

Therefore, if we take £90 (the cost for 6 months “control and supervision” at £15 per month) off the costs of a 6 month licence, we are left with a cost of £15 (£105 - £90) for the cost of granting the licence.

Likewise, if we take £180 (the cost for 12 months “control and supervision” at £15 per month) off the costs of a 12 month licence, we are also left with a cost of £15 (£195 - £180) for the costs of granting the licence.

With the greatest of respect to officers, do they really spend as much time on “control and supervision” of each vehicle per month as they do in processing an application for the grant or renewal of a vehicle licence? In the absence of a breakdown of officer time to a level that shows how they are spending their time, I suspect no-one will ever know the answer to that question.

Whilst the fees for private hire operator licences are also contained in section 70, and charges may be made for “control and supervision”, the reality is that the majority of a council’s dealings with an operator relates to drivers (for which no charge can be made under section 53) or vehicles (for which a charge can be made of vehicle proprietors under section 70). In the circumstances, unless the Council can identify matters that relate solely to the “control and supervision” of private hire operators, I would suggest the only fee chargeable is that for the grant of the licence. Again, whether a licence permits an operator to invite and accept bookings for one or an unlimited number of private hire vehicles or whether it is granted for one day or the statutory maximum period of 5 years, the charge ought to be the same. However, having allegedly quantified the fee for the grant at £200, officers have then gone on to propose an additional fee of £42 per vehicle.

Furthermore, as the matters to be considered in relation to an application for the grant or renewal of a private hire operator’s licence are fewer than those for a vehicle or a driver, it is difficult to understand why the fee for grant is disproportionately higher than it is for the grant element of the proposed fees for vehicles or drivers.

In conclusion, on behalf of my clients, I respectfully submit that should the Council proceed to implement the charges as proposed, the Council will then (if it is not already) be charging fees that were not set within the statutory constraints of sections 53(2) and 70 of the Local Government (Miscellaneous Provisions) Act 1976.

Should the Council not wholly abandon its current proposals to amend hackney carriage and private hire licensing fees, my clients give notice that they may without further reference to the Council proceed to challenge the lawfulness of such charges by asking the Audit Commission to direct an auditor to conduct an extraordinary audit of the accounts of the Council, pursuant to section 25 of the Audit Commission Act 1998.

In the event that it is possible for an objector to address Licensing Committee when it consider this matter further, I would be obliged if you would kindly note that my clients would wish for me to do so on their behalf.

Yours faithfully,

A handwritten signature in black ink that reads "David B. Wilson". The signature is written in a cursive, slightly slanted style.

David B Wilson

Licensing Consultant, Mediator and Trainer

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