

Budget Report and Representations for The ELC

Hackney Carriage and Private Hire Driver, Vehicle and Operator Licensing Fee Increase

1. Section 53 (2) of The Local Government (Miscellaneous Provisions) Act 1976 states the following in relation to **driver and private hire vehicle** licensing for hackney carriage or private hire:

'Notwithstanding the provisions of the Act of 1847, a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private hire vehicle, as the case may be, such a fee as they consider **reasonable with a view to recovering the costs of issue and administration** and may remit the **whole or part of the fee in respect of a private hire vehicle** in any case in which they think it appropriate to do so.'

Section 70 (1) of The Local Government (Miscellaneous Provisions) Act 1976 states the following in relation to **vehicle** and **operator** licensing for hackney carriage and private hire:

'Subject to the provisions of subsection (2) of this section, a district council may charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time and as may be sufficient in the aggregate to cover in whole or in part—

(a) the **reasonable** cost of the carrying out by or on behalf of the district council of **inspections of hackney carriages and private hire vehicles** for the purpose of determining whether any such licence should be granted or renewed;

(b) the **reasonable** cost of **providing hackney carriage stands**; and

(c) any **reasonable administrative or other costs in connection with the foregoing and with the control and supervision of hackney carriages and private hire vehicles.**'

The legislation is clear, and is unequivocal, in **whole or in part**, not in **excess**, in short, the budget for the licensing of drivers, vehicles and operators in relation to the hackney carriage and private hire section of Gedling Borough Council, must be run at either **cost or less than cost**, it cannot legally be run at a profit, and funds also cannot be obtained through fees, and then allocated elsewhere to matters unrelated to hackney carriage and private hire licensing, as stated in the aforementioned legislation.

2. Fees charged in relation to specific areas, must be equal to or at least close to (within a very small margin of error) the cost of those services. As an example, if the inspection alone of a hackney carriage vehicle costs Gedling Borough Council £65 in costs, the proprietor must pay either £65 for that inspection, or less than £65, it cannot legally be more. As a further example, if the administration, control and supervision of that hackney carriage vehicle costs Gedling Borough Council £100 for a six month period, the proprietor must pay either £100 for that service, or less, it cannot legally be more.

It is also at this point essential to note, that Gedling Borough Council are not legally permitted to '**cross recover**', in essence, the **recovery must be specific**. The cost of anything to do with Section 53 (2), cannot be billed under Section 70 (1) and vice versa, nor can the cost of anything to do with Section 70 (1) (a) be billed under Section 70 (1) (b) or (c) and vice versa, they must be separate. This was affirmed in the legal case at the Court of Appeal in **R (Rehman) V The Council of the City of Wakefield [2019] EWCA Civ 2166.**

Furthermore, Gedling Borough Council must, by law as was made clear in **R (Cummings) V Cardiff City Council [2014] EWHC 2544**, keep separate accounts for the regimes under which they charge all licence fees for hackney carriage and private hire drivers, vehicle and operator licences:

'A local authority must keep separate accounts for and ensure when determining hackney carriage and private hire licence fees under sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 that any surplus and deficit accrued under each of the determining hackney carriage and private hire licensing regimes, and between each licence within those regimes, are only accounted for and taken into account within the regime under which they have accrued and a surplus from one licensing regime shall not be used to subsidise a deficit in another.'

Therefore to in effect, lump all expenditure together at any point, without '**cross recovery**' analysis, would be **unlawful**.

3. **I have attached three files to this report as annexes:**

The first two annexes were obtained by way of a Freedom of Information Act 2000 request and were provided by the Finance Department at Gedling Borough Council, the documents are as I was sent them, bar the numbers annotated in black ink, these are to make the sections distinguishable. The third annex is with figures obtained by me, both online and by speaking directly with Licensing Officers in those councils.

Annex A – The licensing budget for Hackney Carriage and Private Hire Drivers, Vehicles and Operators Licenses for the financial years of 2018/2019, 2019/2020 and 2020/2021.

Annex B – The proposed licensing budget for Hackney Carriage and Private Hire Drivers, Vehicles and Operators Licenses for the financial year 2022/2023, which has led to the recommendation for the fee increase of 5.5%.

Annex C – Vehicle Licence information and costs for other Borough/City/District Councils.

4. After reviewing the documents, it would appear that they show potential **unlawful activity** by Gedling Borough Council, in essence the **overcharging of fees** in relation to Section 53 (2) and Section 70 (1) (a), (b) and (c) of the 1976 act.

5. It is also important to note that Gedling Borough Council had **1068** hackney carriage vehicles licensed in 2019, the current figure, as of 26th January 2022 is only **600**. That is a decrease of approximately 45% altogether and within the following years:

- 2019 – 1068
- 2020 – 980
- 2021 – 840
- 2022 – 600

Furthermore, the number of private hire vehicles licensed by Gedling Borough Council in 2019 was **111**, as of 1st February 2022, the number is **97**, a decrease of around **13%**. The number of drivers licenses held, these are dual licenses, was **944** as of 31st December 2019, and is as of 1st February 2022, **781**. This is a reduction of **18%**. However it is essential to note, that a Gedling Borough Council licensed driver, can only drive a Gedling Borough Council licensed hackney carriage or private hire vehicle, therefore considering the number of vehicles left on license, it would appear around **85** of these drivers may be inactive and waiting on expiry. This is specifically important in relation the **One Stop Shop**, element of the budgets, however I will expand on this later.

6. Firstly I turn to the budgets for the **three previous financial years**, and I will leave aside the '**One Stop Shop**' element, to which I will return.

7. The **Vehicle Inspections** part is simple and is covered by **Section 70 (1) (a)**:

2018/2019 – Cost: £122,654.40 and Fees Paid: £146,152.00 – **Profit: £23,497.60**

2019/2020 – Cost: £121,239.20 and Fees Paid: £155,514.50 – **Profit: £34,275.30**

2020/2021 – Cost: £105,753.80 and Fees Paid: £140,036.00 – **Profit: £34,282.20**

Total Profit: £92,055.10

This is clear, over a period of three financial years, Gedling Borough Council would appear to have made a substantial profit, which is not recovery in whole or in part, and would appear to therefore be **unlawful**.

8. The **Vehicle License Control and Supervision**, and provision of **Hackney Carriage Stands** income under **Section 70 (1) (c)**, would appear to be very clear:

2018/2019 – Fees Paid: £230,365.00

2019/2020 – Fees Paid: £249,864.00

2020/2021 – Fees Paid: £225,647.00

Total Income 2018 – 2021: £705,876.00

This would mean that within the budgets at **Annex A and Annex B** it must be clear that the amounts above have specifically been spent on **Vehicle Control and Supervision** and the provision of **hackney carriage stands**. Once a vehicle is inspected by the workshop (which is paid for by the vehicle inspection fee, which Gedling Borough Council has already made a substantial profit on, see above) it would be on the council to show that **control and supervision**, along with **reasonable costs of providing hackney carriage stands**, equates to nearly a quarter of a million pounds each year. I do not see how this is possible, I fail to see how this can be judged as **reasonable**.

9. The **Driver License Administration and Issue** income (including **topography**, which is part of driver's licence issue, as the knowledge test is only ever taken for the first license issued to the driver) under **Section 53 (2)**, would appear to be clear:

2018/2019 – Fees Paid: £133,164.00

2019/2020 – Fees Paid: £151,704.00

2020/2021 – Fees Paid: £119,031.00

This would again mean that within the budget's at **Annex A and Annex B** it must be clear that the amounts above have specifically been spent on **Driver License Administration and Issue**, I do not see how this is possible looking at the budgets, it is plain to see. This needs to be justified, currently on the face of it, this looks **unreasonable**.

10. The **Operator's Licence Control and Supervision** income under **Section 70 (1) (c)**, would appear to be very clear:

2018/2019 – Fees Paid: £6608.00

2019/2020 - Fees Paid: £3735.00

2020/2021 – Fees Paid: £2596.20

Looking within the budget's at **Annex A and Annex B** it must be clear that the amounts above have specifically been spent on **Operator Control and Supervision**, again I would ask this be justified, I can't see how it is **reasonable**.

11. Another area within the budgets for the last three financial years, that warrants further investigation, is that entitled as **Licensing Miscellaneous**. The expenditure is as follows:

2018/2019 - £27,335.92

2019/2020 - £23,521.51

2020/2021 - £23,880.19

Total Expenditure: £74,737.31

I have been informed that this expenditure covers equipment and materials for producing driver badges and vehicle plates, and advertising in newspapers for fee rises, and any other expenditure that does not fit in any other categories. This would appear to be **unreasonable and unjustifiable**, with the amount of vehicles and drivers being licensed decreasing by around 30% (as above, by year on year, including private hire and hackney carriage), this cost expenditure amount **cannot possibly be static**. It just doesn't add up, on the face of it, this appears to be **unreasonable**.

12. Furthermore, in relation to the budget at **Annex A**, for the financial year **2020/2021**, there is notification that **£17,600.00** was taken from license fees paid by drivers, vehicle proprietors and operators, to fund the **crime and community reserves** and that a further **£5000.00** was also taken for **housing benefit reserves**, apparently miscoded, and now believed to be for **licensing**. I have been informed that these amounts are transferred to the reserves for the eventuality of the backfilling of staff for licensing. This needs to be **reasonable**, I fail to see how, in accordance with the legislation above, it can be.

13. Secondly, I now turn to the **proposed budget** for the financial year **2022/2023**, it would appear to be clear:

Vehicle Inspection Fees – Forecast Income - **£125,200.00**

Vehicle Licence Fees – Forecast Income - **£228,300.00**

Driver's Licence Fees (Including Topography) – Forecast Income - **£192,000.00**

Operator's Licence Fees – Forecast Income - **£12,500.00**

Total Forecast Income from Fees: £558,000.00

14. The expenditure is also clear, and equates to **£590,100** of which £307,900 relates to the **One Stop Shop**, I fail to see how such a large expenditure can be **reasonable**, and even if it can be justified, it needs to be subjected to a '**cross recovery**' analysis across the board, as to me it would be clear this is still happening, and it is **unlawful**.

15. Thirdly, I now turn to the issue of the '**One Stop Shop**', for both the last three financial years, and the proposed budget. The expenditure is obscene:

2018/2019 - £259,509.61

2019/2020 - £239,217.04

2020/2021 - £261,417.24

Proposed Budget – 2022/2023 - £307,900

Total Expenditure: £1,068,043,89

The above figure doesn't even take into account the expenditure for the 2021/2022 financial year, as that budget isn't complete as far as I am aware.

16. Each financial year, this classification has made up for almost 50% of expenditure, and in the proposed budget it makes up for over 55% of the total proposed expenditure. I have been informed that this relates to the cost of visits and telephone calls to customer services, in relation to hackney carriage and private hire licensing, each financial year. This is quite frankly, bizarre.

I am aware there are twenty two customer service advisors employed within Customer Services at Gedling Borough Council, they are not all full time. The average salary for a customer service advisor in the United Kingdom as of 15th February 2022, is £19,335 per year. This would mean that sixteen of those customer service advisors could be employed full time, on the average UK wage, to deal specifically with hackney carriage and private hire licensing within Gedling Borough Council on the proposed expenditure, in the proposed budget for 2022/2023. This to me, is unjustifiable, and needs further qualification and investigation, even taking into account pension costs and benefits packages, the number would be only slightly less than sixteen.

17. Furthermore, as shown above, since 2019, the number of hackney carriage vehicles has decreased by 45%, the private hire vehicle numbers have decreased by 13%, and the number of driver licenses in force has decreased by at least 18%, I suspect far more. On this basis, the expenditure for the **One Stop Shop** should be decreasing, not remaining static, and certainly not increasing as indicated, as the numbers of visits and calls will naturally decrease in line with the vehicle and driver drop. Even when taking into account inflation, the expenditure just doesn't appear to be legitimate.

Also, in order to fully comply with the legislation, to in essence prevent '**cross recovery**', the calls and visits would have to be **collated as to nature**, and then the expenditure distributed correctly across each area of recovery, to make sure the fees being charged to drivers, vehicle proprietors and operators, were commensurate with recovery **in whole or in part**. I request the council look into if this has taken place, and will take place moving forward.

18. Fourthly, at **Annex C** I have included the costs other councils charge for vehicle licences for their hackney carriage and private hire trade. It would appear that charges for drivers licenses and operator licenses are in line, broadly speaking, the charges for vehicle licences levied by Gedling Borough Council are obscene, and in some cases nearly triple that which is charged by other councils. I request this is also investigated, it just doesn't seem **reasonable**, not by a long shot.

19. Lastly, I do not claim that everything I have said above is 100% on point, which is why I ask for an investigation to be carried out, along with an audit to make sure that Gedling Borough Council are complying with Sections 53 (2) and 70 (1) (a), (b) and (c) of the 1976 act, before any increase in fees is authorised, and also hope that the previous financial years can be looked at, to see if the situation can be put right for drivers, vehicle proprietors and operators.

20. I am happy to answer any questions the Environment and Licensing Committee have in relation to this report, and will attend the meeting where the representations are discussed.

Kind regards,

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