



Licensing and Health and Safety Committee

Notice of a Meeting, to be held in the Council Chamber, Civic Centre, Tannery Lane,
Ashford, Kent TN23 1PL on Monday 20th January 2014 at 10.00 am

The Members of this Committee are:-

Cllr. Feacey (Chairman)
Cllr. Galpin (Vice-Chairman)
Cllrs. Adby, Apps, Mrs Bell, Chilton, Davey, Hodgkinson, Mrs Hutchinson, Marriott,
Mrs Martin, Shorter, Sims.

Agenda

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Nos. |
|---|----------------------|
| 1. Apologies/Substitutes – To receive Notification of Substitutes in accordance with Procedure Rule 1.2(iii) | |
| 2. Declarations of Interest:- To declare any interests which fall under the following categories, as explained on the attached document: | 1 |
| a) Disclosable Pecuniary Interests (DPI) | |
| b) Other Significant Interests (OSI) | |
| c) Voluntary Announcements of Other Interests | |

See Agenda Item 2 for further details

Matters for Decision

- | | |
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| 3. Minutes – To approve the Minutes of the Meeting of this Committee held on the 7 th January 2013 | |
| 4. Xanadu at 32 High Street, Ashford, TN24 8TE - Application for the variation of a condition of a sex shop licence. | 3 - 20 |
| (a) Clarification and Determination of Equal Maximum Time to be allocated to each party | |
| (b) To note withdrawal of any representations | |
| (c) The Hearing of the case. | |
| 5. Proposed Fee Levels for 2014/15 Applications | 21 - 32 |
| 6. Review of the Hackney Carriage Fare Scale 2014/15 | 33 – 42 |
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20th December 2013



Declarations of Interest (see also “Advice to Members” below)

- (a) **Disclosable Pecuniary Interests (DPI)** under the Localism Act 2011, relating to items on this agenda. The nature as well as the existence of any such interest must be declared, and the agenda item(s) to which it relates must be stated.

A Member who declares a DPI in relation to any item will need to leave the meeting for that item (unless a relevant Dispensation has been granted).

- (b) **Other Significant Interests (OSI)** under the Kent Code of Conduct as adopted by the Council on 19 July 2012, relating to items on this agenda. The nature as well as the existence of any such interest must be declared, and the agenda item(s) to which it relates must be stated.

A Member who declares an OSI in relation to any item will need to leave the meeting before the debate and vote on that item (unless a relevant Dispensation has been granted). However, prior to leaving, the Member may address the Committee in the same way that a member of the public may do so.

- (c) **Voluntary Announcements of Other Interests** not required to be disclosed under (a) and (b), i.e. announcements made for transparency reasons alone, such as:

- Membership of outside bodies that have made representations on agenda items, or
- Where a Member knows a person involved, but does not have a close association with that person, or
- Where an item would affect the well-being of a Member, relative, close associate, employer, etc. but not his/her financial position.

[Note: an effect on the financial position of a Member, relative, close associate, employer, etc; OR an application made by a Member, relative, close associate, employer, etc, would both probably constitute either an OSI or in some cases a DPI].

Advice to Members on Declarations of Interest:

- (a) Government Guidance on DPI is available in DCLG’s Guide for Councillors, at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/240134/Openness_and_transparency_on_personal_interests.pdf plus the link sent out to Members at part of the Weekly Update email on the 3rd May 2013.
- (b) The Kent Code of Conduct was adopted by the Full Council on 19 July 2012, with revisions adopted on 17.10.13, and a copy can be found in the Constitution at <http://www.ashford.gov.uk/part-5---codes-and-protocols>
- (c) If any Councillor has any doubt about the existence or nature of any DPI or OSI which he/she may have in any item on this agenda, he/she should seek advice from the Head of Legal and Democratic Services and Monitoring Officer or from other Solicitors in Legal and Democratic Services as early as possible, and in advance of the Meeting.

Licensing and Health and Safety Committee

Minutes of a Meeting of the Licensing and Health and Safety Committee held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the 7th January 2013.

Present:

Cllr. Feacey (Chairman);
Cllrs. Mrs Bell, Chilton, Galpin, Mortimer, Shorter.

In accordance with Procedure Rule 9.3 Councillor Mortimer attended as a Substitute Member for Councillor Davey.

Apologies:

Cllrs. Davey, Hodgkinson, Mrs Martin.

Also Present:

Licensing Manager, Licensing Officer, Member Services & Scrutiny Support Officer.

277 Declaration of Interest

Councillor	Interest	Minute No.
Feacey	Announced an 'Other Interest' as the Managing Director of Energyshift Ltd who worked with members of the taxi trade.	279 and 280

278 Minutes

Resolved:

That the Minutes of the Meeting of this Committee held on the 9th January 2012 be approved and confirmed as a correct record.

279 Proposed Fee Levels for 2013/14 Applications

The Licensing Manager introduced his report which recommended the proposed fees for gambling applications, sex establishment fees and the hackney carriage, private hire service and operator licence fees for the financial year 2013/14.

Gambling Related Fees

The report recommended that no changes be made to the fees associated with gambling related applications for 2013/14. The expenditure fluctuated due to the amount of staff time allocated to gambling related matters. No new applications for betting premises were anticipated in 2013/14.

In response to questions from Members, the Licensing Manager advised that the types of casino were based on the floorspace covered and the number of machines and gaming tables. There were no plans for a casino in the Borough. The cost of

enforcement or monitoring could not be included within the fee structure. Visits to gambling premises were carried out on a pro-rata basis often in association with the Gambling Commission.

Sex Establishment Fees

Following a recent High Court case and the Council's adoption of the relevant provisions of the Local Government (Miscellaneous Provisions) Act 1982 for the licensing of Sexual Entertainment Venues, the fees for sex establishments were required to be determined annually. The report proposed an increase across the fees of 3.3%.

In response to a question from a Member, the Licensing Manager advised that premises required a licence to sell 'R18' rated DVDs. Many premises did not require a licence, such as Ann Summers, as they did not sell DVDs of that nature.

Hackney Carriage and Private Hire Licensing Fees

It was proposed to maintain fees at the current levels; this was a result of income remaining above the budget and a surplus being generated in previous years. During 2012/13 three year driver licences were introduced, care had been taken to ensure that this implementation was staggered to ensure that there would not be an abundance of applications in one year and minimal applications in the two following years.

In response to questions from Members, the Licensing Manager advised that if there were to be a significant change to fees the taxi trade would be consulted. The cost bandings for different levels of vehicles took into account the inspection of records and were based upon previous fee rates.

Following significant discussions Members felt that the rates for multiple vehicles should be reduced.

Recommended:

- (i) **That the fees used for gambling applications and notices as given below be approved.**

RECOMMENDED GAMBLING RELATED LICENCE FEES FOR 2013/14

Premises Type	New Application (£)	Annual Fee (£)
New Small Casino	6285	3575
New Large Casino	7540	7215
Regional Casino	11880	11140
Bingo Club	2160	670
Betting Premises (excluding Tracks)	2160	430
Tracks	1690	670
Family Entertainment Centres	1690	580
Adult Gaming Centre	1690	670
Temporary Use Notices	200	N/A

	Application to Vary £	Application to Transfer £	Application for Re-Instatement £	Application for Provisional Statement £	Licence Application (provisional Statement holders) £	Copy Licence £	Notification of Change £
New Small Casino	2580	1500	1260	6285	2240	25	50
New large Casino	3410	1760	1985	7540	3700	25	50
Regional Casino	5570	4055	4055	11880	5785	25	50
Bingo Club	1475	820	820	2160	890	25	50
Betting Premises (excluding Tracks)	1245	820	820	2160	890	25	50
Tracks	1130	820	820	1690	890	25	50
Family Entertainment Centres	760	820	820	1690	735	25	50
Adult Gaming Centre	760	820	820	1690	890	25	25
Temporary Use Notices	N/A	N/A	N/A	N/A	N/A	25	N/A

(ii) That the fees used for sex establishment applications as given below be approved.

RECOMMENDED SEX ESTABLISHMENT LICENCE FEES FOR 2013/14

Current Fees:

Grant: £2,994

Transfer: £546

Renewal: £546

Taking into account the above, the recommended fee levels for sex establishments for 2013/14 are as follows:

Grant: **£3,095**

Transfer: **£565**

Renewal: **£565**

(iii) That the fees used for hackney carriage and private hire vehicle, driver and operator applications, as amended at the Meeting and given below be approved for the purposes of public consultation.

**PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING FEES
2013/14**

	CURRENT FEES	PROPOSED FEES
	2012/13	2013/14
Private Hire & Hackney Carriage Drivers Licence (for 1 year)	£49.00	£49.00
Private Hire & Hackney Carriage Drivers Licence (for 3 years)	£75.00	£75.00
Additional driver's licence (adding a licence)	£20.00	£20.00
Hackney Carriage Knowledge Test & Re-test	£30.00	£30.00
Replacement badge	£15.00	£15.00
Vehicle Licence - New or Renewal (including vehicle plate) for 1 year	£290.00	£290.00 – New £270.00 - Renewal
Internal Vehicle Plate	£15.00	£15.00
Transfer of Vehicle Licence (with or without vehicle plate)	£20.00	£20.00
<i>Vehicle Inspection - Test Fee (set by contract)</i>	<i>Max £28.00</i>	<i>Max £28.00</i>
<i>Vehicle Inspection - Missed Appointment (set by contract)</i>	<i>No charge</i>	<i>No charge</i>
Private Hire Operators Licence - New or Renewal (for 3 years)	1-3 vehicles : £73 4-10 vehicles : £310 11-20 vehicles : £620	1-3 vehicles : £73 4-10 vehicles : £240 11-20 vehicles : £480
To increase number of vehicles licensed during duration of Operators Licence		Differences between the categories (£163 & £240)
Replacement Badge	£15.00	£15.00
Fee for Returned (Bounced) Cheques	£16.00	£16.00

280 Review of the Hackney Carriage Fare Scale 2013/14

The Licensing Manager introduced the report which reviewed the hackney carriage fare scale and recommended a 10 pence increase to the starting fare (drop rate) and a 3 percent increase to the fare scale for 2013/14. The recommendations had arisen

following debate at the September Taxi Forum, a subsequent questionnaire of hackney carriage drivers and operators, the responses to which were set out in the report and were discussed at the November Taxi Forum. The proposed increases were modest.

In October 2012 the average price per litre of unleaded fuel for the South East was 135.7 pence. This was approximately the same price for unleaded fuel as of October 2011 with diesel prices remaining approximately the same as of October 2011. Prices had risen during that 12 month period, however had fallen recently.

The Licensing Manager distributed a table detailing a comparison of fees for Local Authorities in Kent as of December 2012. Ashford was shown to be mid-way between the Authorities that had responded.

In response to questions from the Committee, the Licensing Manager advised that he would investigate alternative ways of undertaking the questionnaire of drivers and operators to try to increase the level of responses. It should be noted that Ashford was believed to be the only Local Authority in Kent to carry out such consultations.

Recommended:

That the hackney carriage and private hire vehicle, driver and operator licence fees structure as given in the table below be approved.

DELIBERATLY LEFT BLANK

PROPOSED FARES FOR 2013/14

(a) Fares for distance or time

	<u>£</u>
Rate 1	
If the distance does not exceed 700 yards, for the whole distance or for the first 220.5 seconds of waiting time	2.80
For each subsequent 171.8 yards or uncompleted part thereof	0.20
Or for each subsequent period of 54.5 seconds of waiting time or uncompleted part thereof	0.20

(b) Surcharges for certain times and days:-

Rate 2

- | | |
|---|-------------|
| a) For each hire commenced between 12 midnight and 7 am | 1½ x Rate 1 |
| b) For each hire undertaken on GOOD FRIDAY, EASTER MONDAY, MAY DAY, SPRING BANK HOLIDAY, SUMMER BANK HOLIDAY or any other specifically declared Bank Holiday only. | 1½ x Rate 1 |

Rate 3

- | | |
|--|------------|
| c) For each hire undertaken on a CHRISTMAS DAY, BOXING DAY or NEW YEARS DAY
Note: When the holiday charge (b) or (c) is payable the Night Charge (a) is NOT payable. | 2 x Rate 1 |
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Extras - up to a maximum of £1.20

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| d) for each person (excluding infants in arms) carried in excess of two persons (two children under 10 years of age count as one person) irrespective of distance. | 0.20 |
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Note: For the purposes of counting the number of persons that the vehicle is licensed to carry, children under 10 years of age should each be counted as a person. A babe in arms should not be counted as a person.

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| e) for each article of luggage conveyed outside the passenger compartment of the carriage | 0.05 |
| f) for perambulators | 0.05 |
| g) for dogs | 0.10 |

281 Licenses issued under Delegated Authority for the period 1st December 2011 to 30th November 2012

The Licensing Manager introduced the report which summarised the licences issued under delegated authority. If no representations were received then Officers must grant applications. Only those applications which received representations were brought before Members for consideration at Licensing Sub-Committee hearings.

Members felt that it would be useful to receive the report on an annual basis.

Resolved:

That the report be received and noted.

After the conclusion of the Meeting the Licensing Manager drew the Committees attention to a number of proposed amendments to the Licensing Act. These were:

- Review of mandatory licensing conditions, minimum pricing and the possibility of banning drinks promotions.
- Enhanced closure powers under the Anti-Social Behaviour Bill.
- Changes to street trading and pedlar licensing rules.
- A new act for scrap metal dealer registration and regulation.
- The Plastic Glasses and Bottles (Mandatory Use) Bill 2012-13.
- Changes to charitable collections licensing legislation.
- New draft legislation for taxi/private hire licensing legislation.

The Committee would be kept updated with any changes as and when they were proposed.

Queries concerning these minutes? Please contact Kirsty Liddell:
Telephone: 01233 330499 Email: kirsty.liddell@ashford.gov.uk
Agendas, Reports and Minutes are available on: www.ashford.gov.uk/committees

Agenda Item No:

Licence Reference LN/020100655

Report To: LICENSING COMMITTEE

Date: 28TH OCTOBER 2013

Report Title: Local Government (Miscellaneous Provisions) Act 1982 - Application to vary a condition of a sex shop licence for Xanadu at 32 High Street, Ashford TN24 8TE.

Report Author: Licensing Manager



Summary: The report advises Members of a licence application under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3.

Application type: **Application is made to vary a condition of a sex shop licence under the provisions of Schedule 3 of Local Government (Miscellaneous Provisions) Act 1982**

Applicant: **Ms Jacqueline Singer**

Premises: **Xanadu at 32 High Street, Ashford TN24 8TE**

Key Decision: NO

Affected Wards: Victoria Ward

Recommendations: That the Licensing Committee are recommended to make a determination at the conclusion of the Hearing to either, allow or refuse the variation to the sex shop licence.

Policy Overview: The Sex Shops, Sex Cinemas and Sexual Entertainment Venues Policy 2011.

Financial Implications: There are no specific financial implications arising from this application. However additional costs may be incurred should the matter go to appeal.

Other Material Implications: **HUMAN RIGHTS:** In considering this application the Committee will balance the competing Human Rights of the various parties including the right to respect for private and family life, the protection of property and the right to a fair hearing.
LEGAL: Under the Local Government (Miscellaneous Provisions) Act 1982 the Council has adopted provisions

which enable the Council to exercise control of sex establishments.

Exemption Clauses: Not applicable

Background Papers: None

Contacts: Jack.godley@ashford.gov.uk – Tel: 01233 330722

Agenda Item No.

Report Title: Local Government (Miscellaneous Provisions) Act 1982 - Application to vary a condition of a sex shop licence for Xanadu at 32 High Street, Ashford TN24 8TE.

Purpose of the Report

1. The report advises Members of a variation of a sex shop licence under the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

Application type: **Variation of a sex shop licence.**

Applicant: **Ms Jacqueline Singer**

Premises: **Xanadu at 32 High Street, Ashford TN24 8TE**

Issue to be Decided

2. Members are asked to consider the application to vary a sex shop licence and at the conclusion of the Hearing to either allow or refuse the application.

Background

3. The Local Government (Miscellaneous Provisions) Act 1982 provides that a local authority may, by resolution, adopt Schedule 3 to that Act. Ashford Borough Council adopted Schedule 3 effective from 1 May 1983. Section 27 of the Policing and Crime Act 2009 extended the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 by introducing a new category of sex establishment called "sexual entertainment venues". The Council adopted the extended Schedule 3 in February 2011.
4. Functions under Schedule 3 are the responsibility of the full Council of the local authority, as defined. Under section 101 of the Local Government Act 1972, local authorities may arrange for the discharge of these responsibilities by a committee or sub-committee of the appropriate authority.
5. A sex establishment licence for Xanadu, 32 High Street, Ashford, was first issued in September 2010 and has been renewed annually. A copy of the current licence and conditions are attached in Appendix A.

Application for a variation to a sex shop licence

6. An application has been received from Ms Singer to vary her licence by seeking to remove condition 20 of the licence, which states;
 - Windows and openings to the premises other than entrances shall have suspended behind them, in a position and at an altitude approved by the Council, opaque screens or blinds of a type and size approved by the Council, so as to prevent the interior of the premises being seen by passers by.
7. Ms Singer wishes to remove the screen restricting the view into the interior of the premises from the left hand window. The removal of this screen will allow

the passing public an unrestricted view to the front part of the premises. She states that this area will only contain lingerie and all toys and R18 DVD's will be positioned behind a wall at the rear of the shop which would have restricted access.

8. The act allows for the appropriate authority to make regulations prescribing standard conditions applicable to licenses for sex establishments, that is to say, terms, conditions and restrictions on or subject to which licenses under this Schedule are in general to be granted, renewed or transferred by them. Prescribe conditions may include the regulating of—
- The hours of opening and closing of sex establishments;
 - Displays or advertisements on or in such establishments;
 - The visibility of the interior of sex establishments to passersby; and
 - Any change of a sex cinema to a sex shop or a sex shop to a sex cinema.

Considerations

9. The issues before Members may be summarised as follows-

The holder of a licence under this Schedule may at any time apply to the appropriate authority for any such variation of the terms, conditions or restrictions on or subject to which the licence is held as may be specified in the application and the appropriate authority may;

1. Allow the variation; or
2. Refuse the variation; or
3. Make such variation as members see fit

Appeal

10. In the event that the Committee refuses the application for the variation of a sex shop licence the applicant has a 21 day right of appeal to the decision in a Magistrates' Court.

Recommendations

11. That Members carefully consider the application to vary the licence and at the conclusion of the Hearing either, allow or refuse the variation.

Contact: Email:	Licensing Manager jack.godley@ashford.gov.uk
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Appendix A: Copy of 2013/14 sex shop licence for Xanadu.

Agenda Item No: 5
Report To: LICENSING, HEALTH AND SAFETY
COMMITTEE



Date: 20th January 2014

Report Title: PROPOSED FEE LEVELS FOR 2014/15
APPLICATIONS

Report Author: Licensing Manager

Summary:	The report proposes fees for licences for the financial year 2014/15.
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Key Decision: NO

Affected Wards: Not applicable

Recommendations: That the Licensing, Health and Safety Committee recommends:

1. the fees used for gambling applications and notices as given in Appendix A to the Cabinet;
2. the sex establishment fees as given in Appendix B to the Cabinet;
3. the hackney carriage, private hire and operator licence fees in Appendix C to the Cabinet for public consultation;
4. the scrap metal, site and collectors fees as given in Appendix D to the Cabinet; and
5. note the summary report for licences/permissions issued in 2012/13.

Policy Overview: The process of setting the fees for licences is essential to ensure that operational costs are recovered and that Council budgetary objectives are met.

Financial Implications: The process of setting the fees is necessary to ensure that fees are set at a level that will enable the authority to recover the costs associated with the service provision.

Risk Assessment Yes

Equality Impact Assessment The setting of fees in relation to these functions is not considered to cause any discrimination. The fees are set in accordance with Government guidance and each application is processed on its individual merits.

Other Material Members should note generally that licences issued by the

Implications: Council may be considered possessions and therefore Article 1 to Protocol 1 of the Human Rights Act 1998, the peaceful enjoyment of possessions, is relevant.

Exemption Clauses: Not applicable

Background Papers: None

Contacts: jack.godley@ashford.gov.uk – Tel: 01233 330722

7. Case law relating to fee levels in various licensing areas has agreed a general principle that licensing fees should not be used as a method of creating revenue. For example:
 - *R v Manchester City Council ex parte King (The Times, 3 April 1991)* – established that local authorities may only charge reasonable fees for licences and not use them to raise revenue; and
 - *R v Westminster City Council ex parte Hutton (1985) LGR* – established the need to only take into account relevant material when setting the fees.
8. Under the recently adopted EU Services Directive licence fees set must be proportionate to the effective cost of the licensing procedure and must not be used as an economic deterrent or to raise funds. Councils must set fees that cover the costs directly associated with the licensing function. It is important therefore that Council's fees are defensible and based on actual costs incurred. It is also important to ensure that our fees do not include potential enforcement costs on those operating without a licence.

Gambling Related Fees

9. The Gambling Act 2005 Section 212 gives the Secretary of State power to make regulations prescribing the fees payable to the licensing authority. It also gives them the power to devolve to licensing authorities, in England and Wales, the freedom to set fees for premises licence applications, subject to any constraints they may prescribe. The Government decided that for England and Wales, licensing authorities will determine their own fees for gambling premises licences and temporary use notices but that the Secretary of State will prescribe the maximum fee payable for each category of licence.
10. Local authorities are able to set fees for premises licences from within fee bands prescribed by Department for Culture, Media and Sport (DCMS).
11. There will be an initial fee to cover the cost of application and an annual "maintenance" fee.
12. The DCMS asked licensing authorities to set fees to ensure full cost recovery and that the fee levels represent fairness and value for money for the gambling industry. All licensing authorities must set their fees upon a cost recovery basis only (Gambling Act Section 212 (2)(d)) and are required to review their fee levels on an annual basis to ensure this.
13. While the licensing authority can set fees for the applications in Appendix A, permit fees are prescribed by the Government and therefore licensing authorities have no discretion to set fees on these applications.
14. There has been no fee increase since the fees were first set in 2007 and this year it is proposed that an average increase of 2.5% be made to the fees which are in line with inflation. The proposed fees are set out at Appendix A.

Sex Establishment Fees

15. The licensing of sex establishments is governed by the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3. Under these adoptive provisions local authorities can require any sex shops or sex cinemas in their area to obtain a licence. Ashford Borough Council adopted Schedule 3 effective from 1st May 1983.
16. Members will be aware that the Council carried out a consultation about whether to adopt the relevant provisions of the Local Government (Miscellaneous Provisions) Act 1982, for the licensing of Sexual Entertainment Venues, such as lap dancing clubs. The Full Council adopted the relevant provisions on February 17th February 2011.
17. A recent High Court case (*Hemming (t/a Simply Pleasure Ltd) & Ors v Westminster City Council [2012] EWHC 1260 (Admin)*) confirmed that it was unlawful for a local authority to charge lawful licensees for the cost of enforcement action against unlicensed operators. In addition the judgment contained an important decision relating to the setting of sex establishment application fees, stating that licensing authorities cannot simply rollover it's licensing fees without determining the licence fee.
18. It is proposed that an average increase of 2.5% be made to the fees which are in line with inflation. The proposed fees are set out at Appendix B

Hackney Carriage and Private Hire Fees

19. In 2007/8 and in 2008/9 the fees were increased by 3%, which was below the relevant rate of inflation. The fees for 2009/10, 2010/11 and 2011/12 were unchanged, due to an increase in the number of drivers, ensuring that inflationary costs were covered by increased income.
20. In 2012/13 most of the fees remain unchanged, with the following exceptions:
 - Application fee to renew vehicle licences was reduced from £290 to £270
 - Application fee to transfer vehicles (due to a proprietor changing their vehicle) was reduced from £25 to £20.
 - Three-year driver licences were introduced at £75 (compared to £49 for an annual licence).
21. Licensed drivers and proprietors have up to five additional costs to pay in relation to the annual licensing process; Disclosure and Barring Service checks (every three years and currently £44), vehicle compliance checks (two per year and currently £28), and medicals every three or six years for those under 65. Additional one off costs are; .knowledge test for hackney carriage drivers (£30) and Driver Standard Agency Taxi Test (from £79.66)
22. It is proposed that the overall fees be increased by an average of 2.5% which is inline with inflation. This will be the first increase in 7 years. There are some processes where a fee increase and decrease are sought. It is proposed that the Hackney carriage driver's test is increased from £30 to £45, as the time

involved in preparing and administering the test is not currently covered by the charge of £30. It is proposed to increase the fees for a transfer of licence and a replacement plate (internal/external), from £20 to £25 due to the cost of the items, as well as officers' time. However it is proposed that replacement badge/licence fees are reduced from £15 to £10.50, as the administrative process has been streamlined.

23. The recommended licence fees are set out at Appendix C.

Scrap Metal Dealers Fees

24. The Scrap Metal Dealers Act 2013 received Royal Assent on the 28 February 2013, delivering much needed reform of the scrap metal sector. The 2013 Act will provide effective and proportionate regulation of the sector, creating a more robust, local authority run, licensing regime that will support legitimate dealers yet provide the powers to effectively tackle unscrupulous operators. It will raise trading standards across the whole sector.
25. Schedule 1(6) of the 2013 Act provides that an application must be accompanied by a fee set by the local authority. In setting a fee, the authority must have regard to any guidance issued from time to time by the Secretary of State with the approval of the Treasury.
26. The power to set fees has been passed to individual local authorities, so that any fees levied in each local area is set by reference to the actual costs to each authority. The EU services directive states that a licence fee can only be used to pay for the cost associated with the licensing process. In effect, each local authority must ensure that the income from fees charged for each service, application, variation and renewal does not exceed the costs of providing the service.
27. The initial fees for a 3 year licence under this new Act were set by Council in October 2012, based on estimated costs as it was a new licensing regime. As a result of the processes involved and time taken, these have been recalculated and are set out at Appendix D.

Consultation

28. Those fees that require public consultation for 2014/15 will be advertised by way of a public notice when the Full Council has granted approval.

Implications Assessment

29. As previously stated the recommendations do not represent key decisions. The consideration assessment indicates low impact in terms of human rights, legal and staffing implications.

Handling

30. The fees as recommended by the Licensing, Health and Safety Committee will be presented to the Cabinet on 13th February 2014 and the Full Council on 20th February 2014. This will allow the authority time to publish and apply the gambling and sex establishment fees by the 1st April 2014.

31. The hackney carriage and private hire licence fees are subject to a public consultation in accordance with Section 70 of the Local Government (Miscellaneous Provisions) Act 1976. A Public Notice will be placed in the local press.
32. If no objections are received in response to the Public Notice the fee structure would be adopted from 1st April 2014.
33. If relevant objections are received in response to the Public Notice, these would be reported back to the Licensing, Health and Safety Committee in April 2014.

Conclusion

34. The impact on income to the Council of these changes must be carefully monitored and annual reviews of fees must be continued to ensure that the service remains self-financing but avoids raising excessive revenue. The fees have generally been increased by 2.5% which is inline with inflation.
35. A summary of the licenses and permissions issued by Ashford Borough Council, for the period 1st December 2012 to 30th November 2013, has been prepared and is set out at Appendix E for noting.

Portfolio Holder's Views

36. The views of the Portfolio Holder are being sought and will be presented to members at the meeting.

Contact: Email:	Jack Godley jack.godley@ashford.gov.uk
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APPENDIX A: RECOMMENDED GAMBLING RELATED LICENCE FEES FOR 2014/15

APPENDIX B: RECOMMENDED SEX ESTABLISHMENT LICENCE FEES FOR 2014/15

APPENDIX C: PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING FEES 2014/15

APPENDIX D: RECOMMENDED SCRAP METAL, SITE & COLLECTORS LICENSING FEES 2014/15

APPENDIX E: LICENSING SUMMARY 2012/13

APPENDIX A: RECOMMENDED GAMBLING RELATED LICENCE FEES FOR 2014/15

Premises Type	New Application (£)	Annual Fee (£)
New Small Casino	6442 (8000)	3664 (5000)
New Large Casino	7729 (10000)	7395 (10000)
Regional Casino	12177 (15000)	11419 (15000)
Bingo Club	2214 (3500)	690 (1000)
Betting Premises (excluding Tracks)	2250 (3000)	445 (600)
Tracks	1732 (2500)	687 (1000)
Family Entertainment Centres	1732 (2000)	595 (750)
Adult Gaming Centre	1732 (2000)	690 (1000)
Temporary Use Notices	200 (500)	N/A

	Application to Vary	Application to Transfer	Application for Re-Instatement	Application for Provisional Statement	Licence Application (provisional Statement holders)	Copy Licence	Notification of Change
	£	£	£	£	£	£	£
New Small Casino	2645 (4000)	1538 (1800)	1295 (1800)	6442 (8000)	2296 (3000)	25 (25)	50 (50)
New large Casino	3495 (5000)	1804 (2150)	2035 (2150)	7729 (10000)	3793 (5000)	25 (25)	50 (50)
Regional Casino	5709 (7500)	4156 (6500)	4156 (6500)	12177 (15000)	5930 (8000)	25 (25)	50 (50)
Bingo Club	1512 (1750)	841 (1200)	841 (1200)	2214 (3500)	912 (1200)	25 (25)	50 (50)
Betting Premises (excluding Tracks)	1276 (1500)	841 (1200)	841 (1200)	2214 (3000)	912 (1200)	25 (25)	50 (50)
Tracks	1158 (1250)	841 (950)	841 (950)	1732 (2500)	912 (950)	25 (25)	50 (50)
Family Entertainment Centres	779 (1000)	841 (950)	841 (950)	1690 (2000)	735 (950)	25 (25)	50 (50)
Adult Gaming Centre	760 (1000)	820 (1200)	820 (1200)	1732 (2000)	753 (1200)	25 (25)	50 (50)
Temporary Use Notices	N/A	N/A	N/A	N/A	N/A	25 (25)	N/A

Ashford Borough Council's Licensing Authority proposes the following fees as shown in bold type in the table above. For ease of reference the maximum fees identified by DCMS that could be charged are shown in brackets. Current fees are shown in the next table.

CURRENT GAMBLING RELATED LICENCE FEES FOR 2013/14

Premises Type	New Application (£)	Annual Fee (£)
New Small Casino	6285	3575
New Large Casino	7540	7215
Regional Casino	11880	11140
Bingo Club	2160	670
Betting Premises (excluding Tracks)	2160	430
Tracks	1690	670
Family Entertainment Centres	1690	580
Adult Gaming Centre	1690	670
Temporary Use Notices	200	N/A

	Application to Vary £	Application to Transfer £	Application for Re-Instatement £	Application for Provisional Statement £	Licence Application (provisional Statement holders) £	Copy Licence £	Notification of Change £
New Small Casino	2580	1500	1260	6285	2240	25	50
New large Casino	3410	1760	1985	7540	3700	25	50
Regional Casino	5570	4055	4055	11880	5785	25	50
Bingo Club	1475	820	820	2160	890	25	50
Betting Premises (excluding Tracks)	1245	820	820	2160	890	25	50
Tracks	1130	820	820	1690	890	25	50
Family Entertainment Centres	760	820	820	1690	735	25	50
Adult Gaming Centre	760	820	820	1690	890	25	25
Temporary Use Notices	N/A	N/A	N/A	N/A	N/A	25	N/A

APPENDIX B: RECOMMENDED SEX ESTABLISHMENT LICENCE FEES FOR 2014/15

	CURRENT FEES 2013/14	PROPOSED FEES 2014/15
Grant	£3095	£3172
Transfer	£565	£579
Renewal	£565	£579

APPENDIX C: PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING FEES 2014/15

	CURRENT FEES 2013/14	PROPOSED FEES 2014/15
Private Hire & Hackney Carriage Drivers Licence (for 1 year)	£49.00	£49.00
Private Hire & Hackney Carriage Drivers Licence (for 3 years)	£75.00	£75.00
Additional driver's licence (adding a licence)	£20.00	£20.00
Hackney Carriage Knowledge Test & Re-test	£30.00	£45.00
Replacement badge / Licence	£15.00	£10.50
Vehicle Licence - New or Renewal (including vehicle plate) for 1 year	£290.00 £270 – Renewal	£300.00 – New £280.00 - Renewal
Vehicle Plate Internal / External	£20.00	£25.00
Transfer of Vehicle Licence (with or without vehicle plate)	£20.00	£25.00
<i>Vehicle Inspection - Test Fee (set by contract)</i>	<i>Max £28.00</i>	<i>Max £28.00</i>
<i>Vehicle Inspection - Missed Appointment (set by contract)</i>	<i>No charge</i>	<i>No charge</i>
Private Hire Operators Licence - New or Renewal (for 3 years)	1-3 vehicles : £73 4-10 vehicles : £240 11-20 vehicles : £480	1-3 vehicles : £75 4-10 vehicles : £250 11-20 vehicles : £500
To increase number of vehicles licensed during duration of Operators Licence	1-3 to 4-10 £237 4-10 to 10-20 £310	£175 £250
Fee for Returned (Bounced) Cheques	£16.00	£16.00

APPENDIX D: RECOMMENDED SCRAP METAL DEALERS FEES FOR 2014/15

	CURRENT FEES 2013/14	PROPOSED FEES 2014/15
Grant Site Licence	£240	£300
Grant Collectors Licence	£180	£200
Renewal Site Licence	N/A	£200
Renewal Collectors Licence	N/A	£100
Variation	£75	£75
Minor Variation	£20	£20

APPENDIX E: LICENSING SUMMARY 2012/13**Licences/Permissions issued 1 Dec 2012 – 30 Nov 2013**

Licence/Permission Type	Number Issued
Taxi	
Vehicles – new, renewal, transfers	346
Drivers / Operators – new, renewals	374
Licensing Act 2003	
TEN's	408
Personal Licences	102
Premises Licences – new, variations, Vary DPS, Transfers	185
Hearings	1
Gambling Act 2005	
Lotteries (new & renewal)	115
Gambling	19
Scrap Metal Dealers Act 2013	
Site licences	9
Collectors licences	5
Other	
Sexual Entertainment Venues	2
Use of Council Land	34
Publicity Displays / Town Centre	45
Skin Piercing etc	4
Animal Licensing	38
House to House	21
Street Collections	69
Street Trading	87
TOTAL LICENCES/PERMISSIONS ISSUED	1864

New Premises Licences 1 Dec 2012 – 30 Nov 2013

Sowa Owl Polish Grocery, Park Mall, Ashford

Bode's Ltd, 7 New Street, Ashford.

The Bakehouse, 8-10 High Street, Biddenden

Victoria Park, Jemmett Road, Ashford

North Willesborough Post Office, 104 Albemarle Road, Willesborough

John Lewis - Ashford, Fougères Way, Ashford

Majestic Wine Warehouse, Land to the rear of 3-7 High Street, Tenterden

Skippers Fish Bar & Cafe, 1 Stanhope Court, Stanhope

Z & B Vintners Ltd, Unit B Mersham Le Hatch Business Village, Hythe Road, Smeeth

Spar, 31 High Street, Ashford

Godmersham & Crundale Village Hall

Mavericks, Units 10 to 12 Ashford Works, Cobbswood Industrial Estate, Ashford

Himalayan Gurkha Mini Market, 33A Bank Street, Ashford

Shadoxhurst Village Hal

Barbers Arms, 169 Bridge Street, Wye

Gurkha Super Store, 29 Court Wurtin, Ashford

Marchants of Bethersden, The Street, Bethersden

Eastern Corner Ltd, 2-4 Torrington Road, Ashford

Wildlife Heritage Foundation, Headcorn Road, Smarden

Agenda Item No: 6
Report To: LICENSING, HEALTH AND SAFETY COMMITTEE



Date: 20th January 2014
Report Title: REVIEW OF THE HACKNEY CARRIAGE FARE SCALE
Report Author: Licensing Manager

Summary:	<p>To recommend to the Cabinet one of the following options to the hackney carriage fare scale for 2014/15</p> <ul style="list-style-type: none">• no change to the current tariff• an increase of 10p to the starting fare (drop rate) and an additional 3% overall• an increase of 10p to the starting fare (drop rate) and an additional 5% overall.
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Key Decision: NO

Affected Wards: Anyone who uses a taxi will be affected and therefore there are indirect implications for all wards. There is also an effect on those who visit the Borough.

Recommendations: **That the Licensing, Health and Safety Committee recommends to the Cabinet approval for the purpose of issuing a public notice any change to the hackney carriage fare.**

Policy Overview: In February 2008 it was agreed by the Council that the hackney carriage fare scale would be reviewed annually. In setting this fare scale a balance needs to be struck between the legitimate aims of the hackney carriage trade to maintain profitability in the face of increasing costs, while protecting the public from excessive fares.

Financial Implications: Fares relate to the charges levied by the hackney carriage trade and as such have no financial impact on the Council.

Risk Assessment YES

Equality Impact Assessment The setting of fares in relation to this statutory function is not considered to cause any discrimination. The fees are set in accordance with Government guidance. The Council's Taxi Policy is subject to a separate Equality Impact Assessment.

Other Material Implications: There are no direct legal implications. The procedure for setting fares and public notice requirements are stipulated

within Section 65 of the Local Government (Miscellaneous Provisions) Act 1976. Members should note generally that hackney carriage and private hire licences are considered possessions and therefore Article 1 to Protocol 1 of the Human Rights Act 1998, the peaceful enjoyment of possessions is relevant.

Exemption Clauses: Not applicable.

Background Papers: None

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Report Title: REVIEW OF THE HACKNEY CARRIAGE FARE SCALE

Purpose of the Report

1. The report reviews the hackney carriage fare scale and outlines the consultation with the trade on this issue.

Issue to be Decided

2. To recommend to the Cabinet one of the following options to the hackney carriage fare scale for 2014/15.
 - No change to the current tariff.
 - An increase of 10p to the starting fare (drop rate) and an additional 3% overall.
 - An increase of 10p to the starting fare (drop rate) and an additional 5% overall.

Background

3. In February 2008 the Council agreed the Licensing Policy for Hackney Carriages and Private Hire Vehicles which stated the hackney carriage fare scale would be reviewed annually.
4. Members are reminded that the fares relate to the charges levied by the taxi trade as opposed to the fees that are essentially the licence charges levied by the Borough Council. It should also be remembered that the legislation governing taxi and private hire vehicles does not allow Councils to set fares for private hire vehicles. Private hire proprietors may charge what they wish, although legislation dictates that customers must be advised of the fare beforehand unless the vehicle is fitted with a taximeter set at or below the tariff set by this Council.
5. It should also be noted that the tariff is the maximum fare that can be charged and discounts can be given should the proprietor wish.
6. Last year the proposal put to the Licensing, Health and Safety Committee, following a consultation of the hackney carriage drivers and selected operators, was for a 3% increase in the fares and 10p increase in the drop (initial) rate. This was agreed. Following a Public Notice the increase came into affect on 1st April 2013.

Comparison with other areas

7. A league table of hackney carriage fares for the country, based on a 2 mile journey, is produced by the Private Hire Drivers Association ranging from the highest 1 to the lowest 364. Ashford ranks 34th highest as at August 2013.
8. A further league table was produced for the South of England in October 2013 and this also ranks Ashford 34th out of 103.

Proposed Fares

9. The process of setting a fare increase is complex and a balance needs to be struck between the legitimate aims of the taxi trade to maintain profitability in the face of increasing costs, while protecting the public from excessive fares.
10. Fare increases are implemented by changing the mileage at which the fare increases e.g. the present tariff charges 20p/171.8 yards.
11. A 3% increase plus 10p on the start fare (drop rate) will equate to an initial fee of £2.90 and a two mile journey would cost approximately £6.30. A 5% increase plus 10p on the start fare (drop rate) will equate to an initial fee of £2.90 and a two mile journey would cost approximately £6.50. Full details of a 3% increase are contained within Appendix A and a 5% increase in Appendix B.
12. The table below indicates the approximate cost of a journey for various distances on the basis of the current and 3% and 5% fare scale as listed in Appendices A and B.

Distance	Current rate	Proposed rate 10p increase in the drop rate plus an additional 3% overall	Proposed rate 10p increase in the drop rate plus an additional 5% overall
1 mile	£4.20	£4.30	£4.30
2 mile	£6.20	£6.30	£6.50
5 mile	£12.40	£12.70	£12.90
10 mile	£22.60	£23.30	£23.70

13. As of October 2013, the average price per litre of unleaded fuel for the South East was 132 pence. This is a decrease of 7 pence on the previous year. Over the same period diesel prices have decreased by approximately 5 pence.
14. The Consumer Prices Index of inflation (CPI) Indices stood at 2.2% in October 2013, down from 2.7% in September. The Retail Prices Index (RPI) has been assessed against the Code of Practice for Official Statistics and found not to meet the required standard for designation as National Statistics.
15. According to the latest benchmark AA British Insurance Premium Index for the three months ending 30 September 2013 (known as the third quarter), car insurance premiums are showing a downward trend. Members may wish to note that these figures are for general car insurance, rather than specialist private hire or hackney carriage insurance.

16. The Shoparound Index is an average of the five cheapest premiums aggregated premiums from both the direct/broker channel and price comparison sites compiled by the AA. Over the third quarter the average quoted cost for an annual comprehensive car insurance policy fell by 4.5% to £568. However over the 12 month period, October 2012 to October 2013, quotes have decreased by 12.4% overall.

Risk Assessment

17. The Council's Taxi Licensing Policy states the Council will review fares on an annual basis. This report is the mechanism by which this is achieved.
18. Approval of a fare below the expectations of the hackney carriage trade may result in dissatisfaction. The setting of a fare much above the rate of inflation may result in complaints from members of the public.

Other Options Considered

19. Other fare options were included in the consultation with the trade, such as no increase and a 3% increase but the majority voted for the proposed 5% increase.
20. The other options are discussed below.

Consultation

21. At the Taxi Forum in May 2008 members of the taxi trade discussed the mechanisms for consulting with the trade on the process of setting fares. It was agreed that officers would, as part of the annual review of fares, issue a questionnaire to trade members and seek views on how they would like to see fares changed.
22. At the September 2013 Taxi Forum it was agreed that that this year's consultation with the trade on fares would be in the form of an online vote using Survey Monkey as responses to previous postal votes had been so poor. The options to be consulted on were discussed and the forum subsequently agreed. Those present sought an increase to the drop rate of 20 pence and a 3% increase overall.
23. Although an operator's licence is not required to receive bookings for hackney carriages, four of the private hire operators also operate hackney carriage vehicles and were asked to contribute to the survey.
24. The survey consisted of three start (drop rate) proposals, no overall increase and overall increases of 3% and 5%.
25. The results of this survey can be seen in Appendix C, but in summary 52% supported a 10 pence increase to the drop rate and 72% supported a 5% overall increase. Disappointingly less than 26% of eligible drivers responded to the questionnaire, although this was an increase on the 10% that responded last year.
26. The responses have been posted on the Taxi Forum web page, to which all drivers have access and trade representatives have been informed.

27. Drivers were asked during the consultation if any other changes to the fares should be considered:
- One respondent asked for vehicles that could carry six or more passengers to be able to charge a 1½ metered fare.
 - One respondent asked that hackney carriages be allowed to charge the 1½ metered rate on Sundays.

These views are not echoed by the majority.

Implications Assessment

28. As previously stated the recommendation does not represent a key decision. The consideration assessment indicates low impact in terms of human rights, the environment, legal and staffing implications.

Handling

29. The fares approved by the Council must be advertised via a Public Notice in the local press in accordance with Section 65 of the Local Government (Miscellaneous Provisions) Act 1976. If relevant objections are received in response to this Notice a further report would be required.
30. The agreed fare scale will take effect on 1st April 2014.

Conclusion

31. The 5% increase is above the Consumer Price Index (CPI) method of measuring inflation. Members may wish to take the following into account:
- The price of fuel has dropped during the last 12 months.
 - In 2010, the Council decided on no increase. In 2011 there was a 3% increase in maximum fares and a 20p increase in the drop rate. In 2012 there was a 5% increase and a 10p increase in the drop rate and in 2013 there was a 3% increase and a 10p increase in the drop rate.
 - Only a small percentage of drivers and operators responded to the consultation. Of those that did, there was a unanimous vote for a 10p increase in the drop rate and a 5% increase overall.
 - Members are asked to set maximum levels for fares, although drivers may charge less if they wish to.
 - Members are also asked to consider the other changes to fares put forward by the trade as a result of the consultation.

Portfolio Holder's Views

32. **The views of the Portfolio Holder are being sought.**

Contact:	Jack Godley
Email:	jack.godley@ashford.gov.uk

APPENDIX A: 3% fare increase for 2014/15

APPENDIX A: 5% fare increase for 2014/15

APPENDIX B: 2014/15 fare option responses from hackney carriages drivers and operators

APPENDIX A: 3% fare increase for 2013/14

FARES FOR DISTANCE OR TIME

£

Rate 1

If the distance does not exceed 703.90 yards, for the whole distance or for the first 223 seconds of waiting time

2.90

For each subsequent 166.70 yards or uncompleted part thereof

0.20

Or for each subsequent period of 52.90 seconds of waiting time or uncompleted part thereof

0.20

SURCHARGES FOR CERTAIN TIMES AND DAYS:-

Rate 2

a) For each hire commenced between 12 midnight and 7 am

1½ x Rate 1

b) For each hire undertaken on **GOOD FRIDAY, EASTER MONDAY, MAY DAY, SPRING BANK HOLIDAY, SUMMER BANK HOLIDAY** or any other specifically declared Bank Holiday only.

1½ x Rate 1

Rate 3

c) For each hire undertaken on a **CHRISTMAS DAY, BOXING DAY** or **NEW YEARS DAY**

2 x Rate 1

Note: When the holiday charge (b) or (c) is payable the Night Charge (a) is **NOT** payable.

Extras - up to a maximum of £1.20

d) for each person (excluding infants in arms) carried in excess of two persons (two children under 10 years of age count as one person) irrespective of distance.

0.20

Note: For the purposes of counting the number of persons that the vehicle is licensed to carry, children under 10 years of age should each be counted as a person. A babe in arms should not be counted as a person.

e) for each article of luggage conveyed outside the passenger compartment of the carriage

0.05

f) for perambulators

0.05

g) for dogs

0.10

APPENDIX B: 5% fare increase for 2013/14

FARES FOR DISTANCE OR TIME

£

Rate 1

If the distance does not exceed 690.50 yards, for the whole distance or for the first 219 seconds of waiting time

2.90

For each subsequent 163.60 yards or uncompleted part thereof

0.20

Or for each subsequent period of 51.90 seconds of waiting time or uncompleted part thereof

0.20

SURCHARGES FOR CERTAIN TIMES AND DAYS:-

Rate 2

h) For each hire commenced between 12 midnight and 7 am

1½ x Rate 1

i) For each hire undertaken on **GOOD FRIDAY, EASTER MONDAY, MAY DAY, SPRING BANK HOLIDAY, SUMMER BANK HOLIDAY** or any other specifically declared Bank Holiday only.

1½ x Rate 1

Rate 3

j) For each hire undertaken on a **CHRISTMAS DAY, BOXING DAY** or **NEW YEARS DAY**

2 x Rate 1

Note: When the holiday charge (b) or (c) is payable the Night Charge (a) is **NOT** payable.

Extras - up to a maximum of £1.20

k) for each person (excluding infants in arms) carried in excess of two persons (two children under 10 years of age count as one person) irrespective of distance.

0.20

Note: For the purposes of counting the number of persons that the vehicle is licensed to carry, children under 10 years of age should each be counted as a person. A babe in arms should not be counted as a person.

l) for each article of luggage conveyed outside the passenger compartment of the carriage

0.05

m) for perambulators

0.05

n) for dogs

0.10

APPENDIX C: 2014/15 Fare Option Responses from hackney carriages drivers and operators

Drop			
	Total		Total
£2.80 (current)	6	£2.80 (current)	12%
£2.90	26	£2.90	52%
£3.00	18	£3.00	36%
	50		100%

Percentage Increase			
	Total		Total
No change	4	No change	8%
3% increase	9	3% increase	18%
5% increase	37	5% increase	74%
	50		100%

Have you altered your meter to the 2013/14 rate?			
	Total		Total
Yes	47		94%
No	3		6%
Failed to comment	0		0%
	50		100%

Any other matter to be considered:

1.5 rate for Sundays

To charge 1.5 rate for 6 or more passengers