

Licensing Committee

(Special Meeting)

at 6.30pm on Tuesday, 25th September 2018
in the Belle Vue Suite at the Belle Vue Square Offices, Skipton

Committee Members: The Chairman (Councillor Myers) and Councillors Baxandall, Graham, Heseltine, Ireton, Jaquin, Madeley, Moorby, Mulligan, Solloway, Thompson and Welch.

AGENDA

1. **Apologies for absence**
2. **Confirmation of Minutes** of meeting held on 21 August 2018.
3. **Public Participation** – In the event that any questions/statements are received or members of the public attend, the public participation session will proceed for a period of up to fifteen minutes.
4. **Declarations of Interest** – All Members are invited to declare at this point any interests they have in items appearing on this agenda, including the nature of those interests.

(Note: Declarations should be in the form of:

a “***disclosable pecuniary interest***” under Appendix A to the Council’s Code of Conduct, or “***other interests***” under Appendix B or under Paragraph 15 where a matter arises at the meeting which relates to a financial interest of a friend, relative or close associate.

A Member of Council who has a disclosable pecuniary interest must leave the room and not take part in the discussion or vote. When declaring interests under Appendix B or Paragraph 15 of the Code, Members must move to the public seating area, not vote, and speak only if members of the public are also allowed to speak at the meeting.)

5. **Review of Taxi Fares** – Report of the Licensing Manager (Copy attached)

Purpose of Report – To request authorisation for a further consultation process to take place regarding the proposed fares table.

6. Any other items which the Chairman decides are urgent in accordance with Section 100B(4) of the Local Government Act, 1972.

Agenda Contact Officer:

Chris Waterhouse, Committee Officer

Tel: (01756) 706235

E-mail: committees@cravenc.gov.uk

17 September 2018

Emergency Evacuation Procedure

In case of an emergency or if the alarm sounds, leave the committee room and leave the building using the nearest available door. The assembly point is in the main square at the front entrance. An officer will take a roll call at that point. Please do not leave without telling the Chairman or the Democratic Services Section's representative.

LICENSING COMMITTEE

21st August 2018

Present – Councillors Myers (Chairman), Baxandall, Heseltine, Jaquin, Madeley, Moorby, Solloway, Thompson and Welch.

Officers – Legal Services Manager, Licensing Manager, Assistant Licensing Officer and Committee Administrator.

Apologies for absence were received from Councillors Graham and Ireton.

Start: 6pm

Finish: 7:27pm

The minutes of the Committee's meeting held on 12th June 2018 were confirmed and signed by the Chairman.

Minutes for Report

LIC.207

REVIEW OF TAXI FARES

The Licensing Manager submitted a report regarding the outcome of a statutory public consultation that was undertaken in respect of a revised fares tariff for Hackney Carriages which included a new 'distance to pick up point charge'.

It was pointed out that, following the consultation period the latest date for the fares tariff to come into force had been exceeded and, therefore it was necessary to restart the consultation process. Added to this, a late request from a taxi proprietor had been received. The request asked Council to consider an additional hourly rate tariff to accommodate situations where a customer required exclusive use of a vehicle for several hours thus enabling the driver to specify in advance the cost based on time and not distance.

During the course of the ensuing discussion, it was made clear by Members that in wanting to see a tariff system that was fair for taxi drivers and the public, once implemented they expected the new tariff to be rigorously enforced.

Resolved – That, the matter is deferred to the next meeting on 25th September 2018 to enable the consultation process to be restarted on the Hackney Carriage revised fares tariff to now include a fare based on time.

LIC.208

GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES – CONSULTATION ON AN AMENDED STATEMENT FOR PERIOD 2019- 2021

The Licensing Manager submitted a report asking Members to approve the revised Gambling Policy for consultation. The draft policy reflected the principles of the Regulators Code, legislative changes and best practice to ensure Craven had a robust policy that protected the public in Craven who might use gambling premises or carry out gambling that was regulated by the Council.

Resolved – (1) That, the draft Gambling Policy 2019-2021 as now submitted, is authorised for a period of public consultation (end August 2019 – end October 2018).

(2) That, subject to (1) above, the draft Gambling Policy 2019-2021 and any representations received thereon are presented to a future meeting of the Licensing

Committee for consideration and approval and thereafter recommended to Council in December 2018 for ratification.

LIC.209

NEXT MEETING : LICENSING COMMITTEE AND LICENSING AND APPEALS SUB-COMMITTEE

The Committee was asked to consider postponing the date of the next Licensing Committee to a later date in order to enable consideration of any representations received in response to the consultation of the revised Gambling Policy and its adoption by Council in December 2018. The Committee was further informed that a meeting of the Licensing and Appeals was required to consider an application for a Hackney Carriage driver's licence and potentially two other matters involving vehicles.

In light of the need to convene a Licensing and Appeals Sub-Committee and the decision at Minutes LIC.207 and LIC.208 above, it was

Resolved – (1) That, the meeting on 25th September 2018 is retained and that the Licensing Manager is requested to submit a revised draft Hackney Carriage fares tariff for the Committee to consider and give approval to go out to consultation.

(2) That, an additional meeting of the Licensing Committee is held on 13th November in order to:

- a) Consider any representations received in response to the consultation on the revised Gambling Policy; and
- b) Consider any representations received in response to the consultation on the revised Hackney Carriage fares tariff.

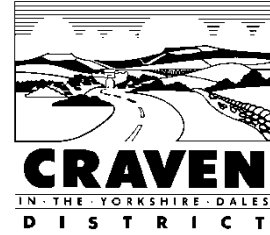
(3) That, a Licensing and Appeals Sub-Committee is held on 18th October 2018 comprising of Councillors Madeley, Moorby and Myers (substitute Councillor Solloway).

Minutes for Decision

- None -

Chairman.

Licensing Committee – 25 September 2018



REVIEW OF TAXI FARES

Report of the Licensing Manager

Ward(s) affected: All

1. **Purpose of Report** – On 24 July 2017 a request was received from a taxi proprietor for the fares applicable to Hackney Carriages to be reviewed to include a further charge that could be applied to journeys which take place within Craven in certain circumstances.
 - 1.1 At a meeting on 19 September 2017 members considered a report and asked officers to seek further legal advice about the proposal of including a discretionary booking fee in the fares tariff and to seek alternative ways of allowing hackney carriage proprietors to legally charge for journeys which commence a considerable distance away from where the journey was booked. A further report was presented to the Licensing Committee on 17 May 2018 and a consultation process on the introduction of a discretionary booking fee was subsequently undertaken.
 - 1.2 At a meeting of the Licensing Committee on 21 August 2018 members resolved to defer consideration of the revised fares table until a future meeting following advice from the Council Solicitor that it could not be considered at that meeting on account of section 65(4) of the Local Government Miscellaneous Provisions Act 1976. It was also noted that the Licensing Manager had received a proposal from the trade to consider the possibility of including a hiring charge based on ‘time’ in the fares table.
 - 1.3 Members asked the officers to research the possibility of including a hiring charge based on ‘time’ in the fares table with a view to a further report being presented to the Licensing Committee on 25 September 2018 with a view to providing authorisation for a further consultation process to take place regarding the proposed fares table.
2. **Recommendations** –

Members are asked to authorise:-

 - 2.1 The Council Solicitor to consult on the proposed amendment to the fares tariff as set out at Appendix A to include a ‘Distance to Pick Up Point Charge’ and ‘Soiling Charge’, and
 - 2.2 the proposed fares take effect from the day after the objection period ends (provided that no objections to the proposals are received), and
 - 2.3 that if objections are received, then power is delegated to the Council Solicitor to process objections in consultation with the Chair and Vice Chair of the Licensing Committee.

3. **Report**

- 3.1 Section 67 of the Local Government (Miscellaneous Provisions) Act 1976 allows a Hackney Carriage to also be used a Private Hire Vehicle.
- 3.2 With regards to Private Hire Operators, Drivers and Vehicles - these licence holders are able to set their own fares and charge the customer effectively what they like as long as the fare has been agreed between the driver or operator before the journey commences.
- 3.3 Hackney Carriage fares on the other hand are set by the Local Authority and are made under Section 65 of the Local Government (Miscellaneous Provisions) Act 1976. It is an offence under Section 58 of the Town Police Clauses Act 1847 to charge more than the fare shown on the meter plus any legitimate extras. A Hackney Carriage Driver must not turn the meter on until such time as the passenger is collected.
- 3.4 The Table of Fares set by the Local Authority applies to any journey undertaken by a Hackney Carriage within the administrative district regardless of whether the journey is pre booked or hailed in the street or on a Hackney Carriage Rank.
- 3.5 Under Section 54 of the same Act it is allowable for an agreement to be made in advance of the hiring of a hackney carriage for a sum less than that shown on the meter at the end of the hiring to be paid. Section 55 however outlaws any agreement to pay more than the fare shown on the meter, irrespective of what may have been agreed beforehand.
- 3.6 As authorised by members at the Licensing Committee on 19 September 2017 advice was sought from James Button & Co Solicitors a leading legal practice that specialises in licensing law. His advice is detailed below:-

“The problem you have identified is that hackney carriage drivers (and by extension, possibly proprietors) are charging a “pick up” or “call out” charge when the journey is commencing outside the town centres, to cover the cost of the vehicle travelling to the pick-up point. Whilst such an arrangement would be lawful for a private hire operator, as there is no control exercised by the Council over private hire fares, it is specifically illegal under hackney carriage law. That is the case however the vehicle was hired, even where the hiring was arranged by a third party “booking agent”. This point was confirmed by the High Court in Stratford-on-Avon District Council v Dyde.

Legally, there is no problem in incorporating a “booking fee” or a “distance to pick up” fee in your table of fares. It falls within the element of the power contained in section 65 that covers ‘and all other charges in connection with the hire of a vehicle or with the arrangements for the hire of a vehicle’.

A number of local authorities have a booking fee. This can be applied when a hiring has been arranged other than by means of either hailing the vehicle, or approaching it when stationary, either at a hackney carriage stand or elsewhere. Such fees tend to be a flat fee, and will not of themselves cover the full cost of the journey to the collection point.

A “distance to pick up point” fee would aim to cover that such a cost, either in whole or in part. The initial suggestion was for a maximum fee, but concerns have been raised that this would be applied universally, thereby discriminating against some passengers. I agree that some form of graduated fee seems to be the best approach.

I also think that it needs to be made clear that the fee applies from either the registered address of the vehicle proprietor, or where the vehicle is located when the booking is accepted, whichever is nearer the location of the pick-up point.

This is necessary because there is no concept of a hackney carriage operator and therefore no obvious starting point for such a charge. Without this, again, there may be abuse of the system and exploitation of passengers.

A third possibility might be where there is an established hackney carriage booking agent, and evidence to demonstrate that all bookings for a particular vehicle are taken through that agent. In that case, the location of the agent could be the starting point, again unless the vehicle is already closer to the pick-up point.

The number of levels of charge, and the amount of the charge will be a matter for your Council to determine. However, for the purposes of public confidence and some degree of certainty, I think a small number would be more satisfactory. I appreciate that Craven is a large district, and however the lines are drawn, there will be degrees of unfairness, with some passengers being charged less for journeys that are only slightly shorter, and some drivers having to drive further for no greater reward. However, short of allowing the meter to be used on the standard charge for all elements of a journey (out and back) that is an inevitable consequence.

As regards the amount of the charge, I feel there should be a tiered approach, building up to the £12 maximum charge on Tariff 1 and £15.00 on Tariff 2 requested and referred to in your report. This could be based on mileage to pick up, perhaps in 2-mile bands up to a maximum of 12 miles at say £1.00 per mile. That is just a suggestion, based on Tariff 1 which currently allows £3.80 for just over a mile (1778.6yards). That may be reasonable, as the existing tariff will take account of dead mileage, although I am not certain how your existing tariff is calculated. Such an approach would lead to the following:

<i>Mileage up to</i>	<i>Tariff 1 Charge</i>	<i>Tariff 2 Charge</i>
<i>2</i>	<i>£2.00</i>	<i>£2.50</i>
<i>4</i>	<i>£4.00</i>	<i>£5.00</i>
<i>6</i>	<i>£6.00</i>	<i>£7.50</i>
<i>8</i>	<i>£8.00</i>	<i>£10.00</i>
<i>10</i>	<i>£10.00</i>	<i>£12.50</i>
<i>12 or over</i>	<i>£12.00</i>	<i>£15.00</i>

It will then be necessary to determine how such a charge is levied. As these are all pre-booked journeys, there will be room for some negotiation, but ultimately, the table of fares must prescribe the maximum charge, to protect passengers. The driver or booking agent can be expected to have a reasonable knowledge of the district, and can therefore make a reasonable estimate of the distance from the starting point (as

detailed above) to the pick-up point, and tell the customer which band the cost will fall into. This can then be entered onto the meter as an extra charge, and will therefore be displayed to the customer.

It may be possible to programme a meter to record the mileage to the pick-up point, and reduce the charge to the lower band if the estimate was wrong. If the estimate was under, there should be no mechanism to increase it.

I do not know whether meter technology will accept this type of approach, but I think it should be possible. It would be sensible to discuss this with your local meter providers before proceeding.

The further problem will be whether the drivers will accept such restrictions on their current (illegal) practices. That will be a matter of enforcement.

I also agree that the soiling charge should be included in the table of fares as well.'

- 3.7 Further advice was sought regarding a proprietors request to include a hiring charge based on 'time' in the table of fares.

The question posed was:-

"Do hackney carriage drivers still have the option to charge on a time driven basis rather than distance?"

Some customers that come into our office want to book a taxi for the day or half a day. This happens a lot at weddings in the rural areas where taxis have been paid to wait at a specific pickup point, usually the church, and shuttle people to the night venue and take the odd person home.

We also take tourists on a half day or full day tour of the dales and surrounding area some customers have there own route with stop offs for lunch or to take photographs.

We usually say the taxi costs this much for this long or so much per hour. Is this still allowed? This practice allows us to give customers a definite price for a journey."

- 3.8 The legal position is that the current Hackney Carriage Byelaws already provide for such a situation with the proviso that the meter must run for the length of the journey and that regardless of any agreement beforehand, any fare eventually charged must not exceed the fare shown on the meter (although it may of course be less) - byelaw 5(b) states:-

5b) before beginning a journey for which a fare is charged for distance and time, bring the machinery of the taximeter into action by moving the said key, flag or other device, so that the word "HIRED" is legible on the face of the taximeter and keep the machinery of the taximeter in action until the termination of the hiring;

- 3.9 As requested the Licensing Manager has carried out research and contacted the Institute of Licensing of which the Licensing Authority is a member and asked them to post a question on the members forum asking other Licensing Authorities to come back with their fares table which includes a tariff based on 'time' as well as 'distance'. The research has covered comparable districts with a similar demographic to Craven DC and it would appear that the proposal to include a time based charge as has been suggested, has not in general been adopted by other authorities.
- 3.10 The tariff card already includes a 'waiting time' which is calculated when the meter is activated and whilst ever the vehicle is running. As the meter must be used for all journeys taking place within the Craven District then an element of time is already included within the fares table.
- 3.11 The meter must be engaged at all times when the vehicle is being driven within the Craven District – if an hourly rate was to be included in the fares table then the problem would arise where the driver would switch of the vehicle whilst waiting for a customer and therefore the meter which would reset itself. From an enforcement perspective including an option for a 'hourly' rate to be used rather than the usual formula of 'distance including a waiting time element' would create an extremely difficult issue to regulate and enforce.
- 3.10 Attached at Appendix A is a revised fares table which would include a 'distance to pick up charge' as suggested which could be charged in circumstances which fell into the journey categories described and would be calculated from the point where the booking is taken – either at the address of the vehicle proprietor, wherever the vehicle is located when the booking is accepted or the address of the booking office used, whichever is nearer the location of the pick-up point.
- 3.11 By including a 'distance to pick up charge' on the tariff it will encourage a rural taxi service which is much needed, not least because there are only a handful of Private Hire Operators covering the whole of the Craven District. If the coverage offered by the Hackney Carriage trade were to significantly decline, then residents who live in rural or remote areas would be seriously disadvantaged, as such areas have poor access to other forms of public transport, and any such provision that does exist is certainly not on a 24 hour basis. A call out charge is therefore designed to enhance the viability of the hackney carriage trade, thereby securing a better service for our residents and rural communities.
- 3.12 In addition a 'Soiling Charge' has been included so that drivers and passengers are aware that if a vehicle has to be taken off the road for example because a passenger is sick in the car, then the driver can make a charge for the inconvenience that would be caused to him/her by having to stop working and get the vehicle cleaned before being able to work again. Where a 'Soiling Charge' is not included it can become a contentious subject should an incident occur and a passenger feels that they are being 'ripped off' by a driver – including this would minimise this risk. This charge is also a maximum so a lower charge could be agreed.
- 3.13 The consultation process is laid down under Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 and is as follows:-

- (1) A district council may fix the rates or fares within the district as well for time as distance, and all other charges in connection with the hire of a vehicle or with the arrangements for the hire of a vehicle, to be paid in respect of the hire of hackney carriages by means of a table (hereafter in this section referred to as a "table of fares") made or varied in accordance with the provisions of this section.
- (2)(a) When a district council make or vary a table of fares they shall publish in at least one local newspaper circulating in the district a notice setting out the table of fares or the variation thereof and specifying the period, which shall not be less than fourteen days from the date of the first publication of the notice, within which and the manner in which objections to the table of fares or variation can be made.
- (b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of fourteen days from the date of the first publication thereof be deposited at the offices of the council which published the notice, and shall at all reasonable hours be open to public inspection without payment.
- (3) If no objection to a table of fares or variation is duly made within the period specified in the notice referred to in subsection (2) of this section, or if all objections so made are withdrawn, the table of fares or variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.
- (4) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the table of fares shall come into force with or without modifications as decided by them after consideration of the objections.
- (5) A table of fares made or varied under this section shall have effect for the purposes of the Act of 1847 as if it were included in hackney carriage byelaws made thereunder.
- (6) On the coming into operation of a table of fares made by a council under this section for the district, any hackney carriage byelaws fixing the rates and fares or any table of fares previously made under this section for the district, as the case may be, shall cease to have effect.
- (7) Section 236(8) (except the words "when confirmed") and section 238 of the Local Government Act 1972 (except paragraphs (c) and (d) of that section) shall extend and apply to a table of fares made or varied under this section as they apply to byelaws made by a district council.

Implications

- 4.1 **Financial Implications** – The cost of placing the advertisement in the Craven Herald is approximately £623.20. The cost of such a notice is recoverable as part of the Hackney Carriage licence fee.

Legal Implications –The report sets out the procedure for setting fares for Hackney Carriages in accordance with the Local Government (Miscellaneous Provisions) Act 1976. The Licensing Authority, in specifying fares, sets the maximum. An individual driver can choose to charge a lower amount if they wish.

It is an offence under section 55 of the Town Police Clauses Act 1847, for which the Licensing Authority may prosecute, for a Hackney Carriage Driver to charge a sum higher than the applicable tariff set by the Licensing Authority.

- 4.2 **Contribution to Corporate Priorities** – Promoting the wellbeing of Craven’s communities
- 4.4 **Risk Management** – The Licensing Manager has stated in discussions with the trade that Hackney Carriage Drivers charging higher than the applicable tariff is unlawful. If a Call Out Charge is not agreed there is a risk that Hackney Carriage Drivers will not undertake Private Hire work in outlying villages for financial reasons which will result in a lack of service for our rural residents.
- 4.5 **Equality Impact Assessment** –The Council’s Equality Impact Assessment Procedure **has not been** followed. Therefore neither an Initial Screening or an Equality Impact Assessment has been undertaken on the proposed policy, strategy, procedure or function to identify whether it has/does not have the potential to cause negative impact or discriminate against different groups in the community based on •age • disability •gender • race/ethnicity • religion or religious belief (faith) •sexual orientation, or • rural isolation.
5. **Consultations with Others** – Enquiries made with local authorities and Institute of Licensing members about fare tariffs. There will be further consultation carried out in accordance with statutory requirements once the proposed fare table is published.
6. **Access to Information : Background Documents** – Sections 65 and 67 Local Government (Miscellaneous Provisions) Act 1976
Legal Advice sought from James Button & Co Solicitors
7. **Author of the Report** – Deborah Bragg – Licensing Manager 01756 706343

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

Appendices – Appendix A – Proposed Fares Tariff

Appendix



Section 65 Local Government (Miscellaneous Provisions) Act 1976

Notice is hereby given that as a request of the Hackney Carriage Proprietors, Craven District Council are to amend the table of fares for licensed Hackney Carriages as set out below:-

TABLE OF FARES

Tariff 1 – 0600 hrs to Midnight

Up to 1st 838 yards£3.00
 Each subsequent 117.6 yards.....10p
 Waiting time per minute 17p
 Distance to pick up point charge – see table below

Tariff 2 – Midnight to 0600 hrs

Up to 1st 838 yards £3.30
 Each subsequent 136.6 yards20p
 Waiting time per minute17p
 Distance to pick up point charge – see table below

Tariff 3 – 1800 hrs on Christmas Eve until 0600 hrs on the 27 December and from 1800 hours New Years Eve until Midnight on New Years Day

Up to 1st 838 yards £4.21
 Each subsequent 143.2 yards20p
 Waiting time per minute 17p
 Distance to pick up point charge – see table below

Tariff 4 – Vehicles when carrying 5 or more passengers

Up to 1st 838 yards£4.00
 Each subsequent 156.9 yards 20p
 Waiting time per minute24p
 Distance to pick up point charge – see table below

Distance to Pick Up Point Charge

This charge can only be applied if it is agreed with the hirer before the journey is booked and the hirer is aware of the reasons it has been applied.

The amount applied should be calculated from one of the following points (whichever is the nearer to the pick-up point):-

- Registered address of the vehicle proprietor;
- The point where the vehicle is parked when taking the booking (e.g. rank);
- The address of the booking office that the journey was booked through.

Mileage Up to	Tariff 1	Tariff 2	Tariff 3	Tariff 4
2	£2.00	£2.50	£2.50	£2.50
4	£4.00	£5.00	£5.00	£5.00
6	£6.00	£7.50	£7.50	£7.50
8	£8.00	£10.00	£10.00	£10.00
10	£10.00	£12.50	£12.50	£12.50
12 or over	£12.00	£15.00	£15.00	£15.00

Soiling Charge

A maximum soiling charge of £50.00 is payable to cover cleaning the vehicle and loss of earnings when a passenger(s) soils a vehicle by whatever means.

The meter must be engaged for each and every journey, whether the vehicle has been pre-booked or not. The driver cannot charge in excess of this table of fares for any journey with the Craven District.

If the hiring takes the journey outside the District of Craven, the driver cannot charge more than this table of fares allows unless a fare has been agreed with the hirer before the commencement of the journey.

These are maximum charges and drivers are permitted to negotiate a fare provided they do not charge any more than the table of fares allows.

It is proposed that the above fares and charges will take effect from xxxxxx 2018

Should any person wish to make objections to the above fares and charges taking effect, they should put their objections in writing addressed to the person named below, as soon as practicable, and in any case before xxxxx 2018

Ms Deborah Bragg – Licensing Manager
Craven District Council, 1 Belle Vue Square, Broughton Road, Skipton,
North Yorkshire BD23 1FJ

Craven District Council

Hackney Carriages
TABLE OF FARES (From 14th June 2012)

Tariff 1 – 0600 hrs to Midnight

Up to 1 st 838 yards	£3.00p
Each subsequent 117.6 yards	10p
Waiting time per minute	17p

Tariff 2 -- Midnight to 0800 hrs

Up to 1 st 838 yards	£3.30p
Each subsequent 196.6 yards	20p
Waiting time per minute	17p

Tariff 3 – 1800 hrs on Christmas Eve until 0600 hrs on the 27 December and from 1800 hours New Years
Eve until Midnight on New Years Day

Up to 1 st 838 yards	£4.21p
Each subsequent 143.2 yards	20p
Waiting time per minute	17p

Tariff 4 – Vehicles when carrying 5 or more passengers

Up to 1 st 838 yards	£4.00p
Each subsequent 156.9 yards	20p
Waiting time per minute	24p

The above apply to all journeys within Craven District and to journeys over the District boundary,
unless agreed otherwise prior to hiring.