

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 31 OCTOBER 2019

TAXI AND PRIVATE HIRE LICENCES

REPORT BY DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The purpose of this report is to advise the Committee further of representations received in respect of the fees charged, and expenses incurred, in relation to taxi and private hire driver and operator licences, work ongoing in respect thereof and plans to progress this matter.

1. RECOMMENDATION

It is recommended that the Committee:-

- (i) notes the legal obligations incumbent upon the Council in relation to fees in respect of taxi and private hire driver and operator licences;
- (ii) notes that a local operator has been in correspondence with Angus Council regarding the methodology used for assessing the licensing fees for taxi and private hire driver licences;
- (iii) notes the financial information contained in **Appendix 1** to this report;
- (iv) agrees that the fees charged by the Council in relation to taxi and private hire driver and operator licences be set annually in September each year starting from 1 September 2020 and be based on:-
 - (a) the income received in the previous financial year;
 - (b) the cost incurred by the Council in administering taxi and private hire driver and vehicle licences;
 - (c) a reasonable and justified contingency of the estimated costs of administering taxi and private hire driver and vehicle licences taking account of the actual income and expenditure in any given year against the budgeted figures; and
 - (d) the legal obligations incumbent upon the Council in relation to fees in terms of the Civic Government (Scotland) Act 1982.
- (v) notes that in setting future fees the Committee will be provided with a budget estimate of income and expenditure to ensure full transparency;
- (vi) agrees that refunds be made to licence holders in respect of the financial years 2016/17 to 2018/19 in the following percentages:-
 - 2016/17 – 18%
 - 2017/18 – 8%
 - 2018/19 – 19%
- (vii) agrees that refunds are calculated on fees charged less fixed costs that the Council are aware of; and

2. BACKGROUND

- 2.1 Angus Council is the licensing authority for the local government area of Angus in terms of the Civic Government Scotland Act 1982 ("the Act"). The Act provides that the licensing authority may resolve to require that certain activities shall require to be licensed. Committee will be aware that the Council has resolved that a number of activities be licensed and that amongst these activities are taxi and private hire operators and taxi and private hire drivers.
- 2.2 Section 12 of the Act provides that a licensing authority shall charge such fees in respect of taxi and private hire car licences and applications for such licences as may be resolved by them from time to time and shall seek to ensure that the total amount of such fees is sufficient to meet the expenses incurred by them in carrying out their functions in relation to taxi and private hire car licences (with the exception of appointing taxi stances).
- 2.3 What this means is that the licensing authority is required to seek to ensure that the total amount of fees meet the expenses incurred by them in respect of administering licences in relation to taxi and private hire operators and taxi and private hire drivers.
- 2.4 In March of this year, a local taxi operator requested information in relation to the costs to the Council of administering taxi and private hire driver and vehicle licences and the fees received in respect thereof. The operator is of the view that the fees charged by the Council are too high.
- 2.5 Discussion took place between Council officers and the operator and eventually a complaint was made to the Scottish Public Services Ombudsman ("SPSO"). The SPSO declined to consider the complaint further. This was on the basis that the Council had identified a need to review their fee arrangements and that a report on this matter would be considered by this Committee.
- 2.6 A previous report on this matter was submitted to this Committee at its meeting on 8 August 2019 (Report 257/19 refers). Having regard to the terms of that report, the Committee agreed to note:-
- (i) the legal obligations incumbent upon the Council in relation to fees in respect of taxi and private hire driver and operator licences;
 - (ii) the representations received from a local operator;
 - (iii) the work ongoing in relation to the current fees charged, the legal obligations on the Council and the expenses the Council incurs in exercising their licensing functions in relation to taxi and private hire drive and drivers; and
 - (iv) that a further report on this matter is to be submitted to the meeting of this Committee on 12 September 2019.
- 2.7 Report 301/19 was submitted to the Civic Licensing Committee at its meeting on 12 September 2019 and the matter was deferred until this meeting of the Committee so that all relevant matters could be investigated and considered.

3. REPORT

- 3.1 A significant amount of work was undertaken by the Finance Service to identify the income received in respect of taxi and private hire driver and operator licences and the costs associated with processing taxi and private hire driver and operator licences. A summary of the outcome of this work is attached as **Appendix 1** to this report.
- 3.2 Committee will note that in the financial years 2013/2014 to 2015/2016 expenditure exceeded income by between £4,887 and £16,749 and in the financial years 2016/2017 to 2018/2019 income exceeded expenditure by between £7,581 to £16,736. It should be

noted that, whilst there have been variances over these six years, the total surplus over the six year period is only 2% of the total income received.

- 3.3 It should be noted that there are a number of assumptions and some weaknesses in the available data used to make these calculations. These figures are not definitive and are what can be regarded as a reasonable best estimate. The majority of costs shown are based on time allocations by staff and the reliability of some of this and changes between years is a factor in some of the variances.
- 3.4 It would appear that, over the last 2-3 years, the costs of the licensing service have reduced or stayed static due to staff reductions and vacancies in licensing and in licensing support services while the fees have had percentage increases applied each year resulting in a surplus between the income the Council receives from fees and the costs it incurs in providing the service.
- 3.5 Based on the analysis undertaken and some of the weaknesses in existing arrangements officers consider that the following actions are necessary:-
- (a) robust systems are established to ensure that staff time spent on licensing activities is more accurately recorded;
 - (b) robust systems are established to ensure that supplies and services directly expended on licensing activities are more accurately recorded;
 - (c) that refunds are issued to licence holders over the period 2016/17 to 2018/19; and
 - (d) that a new mechanism be established to fix fees based on the previous year's expenditure to ensure that the legal requirements in relation to fees and income are met.
- 3.6 The Council as Licensing Authority is required by statute to seek to ensure that the total amount of fees charged is sufficient to meet the expenses incurred by them in carrying out their functions in relation to taxi and private hire car licences. It is impossible to project exactly such fees or expenses. So as to comply with its statutory obligation and deal with any potential shortfall, it was initially proposed that the Council provide for a small surplus of 10% to provide a contingency for unforeseen circumstances or demands. It is now proposed that in order to provide a more accurately assessed contingency, the Committee are being asked to agree that any contingency in any given year will have a rational basis and will take account of the actual income and expenditure in any given year against the budgeted figures.
- 3.7 Income and expenditure figures for a financial year are not finalised until the end of June in the following financial year. Therefore, the current practice of fixing fees prior to 1 April in the next financial year will require to change. It is submitted that, in future, fees be fixed with effect from 1 September to the following 31 August to permit the exercise referred to above to take place with accurate information. It is recommended that this new arrangement will commence with effect from 1 September 2020 taking into account income and expenditure in the financial year 2019/20. If there is any overcharge in respect of the fees for 2019/2020, the Committee will be asked to agree to refund same at a later date.
- 3.8 Steps are being taken to ensure that time spent by all staff on taxi and private hire matters are recorded accurately and regularly. As part of facilitating efficient and effective future delivery of the taxi and private hire licensing service, the council will also benchmark its fee components with other authorities.
- 3.9 It is also recommended that refunds be made to taxi and private hire driver and operator applicants in respect of the financial years 2016/17 to 2018/19 in the following percentages:-
- 2016/17 – 18%
 - 2017/18 – 8%
 - 2018/19 – 19%

It is also recommended that refunds are calculated on fees charged less fixed costs that the Council are aware of. For example, every application for a taxi or private hire operator licence includes an element in relation to the costs charged to this Council by Dundee City Council in relation to vehicle inspections. These charges are fixed and are known and should not be included in the calculation of the refund.

- 3.10 As has been highlighted at 3.4 above, there has been a reduction in the staff engaged in the administration of taxi and private hire driver and operator licenses. This has had a significant impact on the ability of Legal Services to meet legal requirements and the needs and expectations from the trade and cope with demand. A review has commenced to ensure that staffing levels are sufficient to achieve these aims.
- 3.11 Part of representations made suggested that not only should the licensing authority be accounting separately for (1) Civic Government and (2) Taxi and private hire driver and operator licences in respect of income and expenditure, but that the licensing authority should also be doing the same for the 4 different types of licences that fall within taxi and private hire driver and operator licences. This particular issue is distinct from the broader issues being considered in this report but will now be considered as part of future fee setting arrangements.

4. LEGAL IMPLICATIONS

- 4.1 The legal implications are contained in the body of this report.

5. FINANCIAL IMPLICATIONS

- 5.1 The value of refunds to be made in accordance with paragraph 3.9 above is just under £40,000 (an average of £13,333 over the 3 year period). The financial impact of this will be reflected in the Council's revenue budget in financial year 2019/20. The 2019/20 projected year end budget position for the Council suggests this £40,000 impact can be met without direct impact on other service provision.

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