

CITY OF  
WOLVERHAMPTON  
COUNCIL

# Non-Statutory Licensing Committee

18 September 2019

<b>Report title</b>	Administrative Fee for Extra Review Hearing	
<b>Wards affected</b>	All	
<b>Accountable director</b>	Ross Cook, Director, City Environment	
<b>Originating service</b>	Licensing Services	
<b>Accountable employee</b>	Greg Bickerdike	Section Leader
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## Recommendation for decision:

The Non-Statutory Licensing Committee is recommended to:

1. Approve the implementation of a fee for hearings where the applicant fails to attend without reasonable excuse.

## **1.0 Purpose**

- 1.1 This report seeks the approval of the Non-Statutory Licensing Committee to charge applicants for taxi licences who fail to attend hearings, that the applicant booked, without reasonable excuse. The fee will be £70 and payment will be required prior to the applicant booking a new appointment.

## **2.0 Background**

- 2.1 Applicants for a 'Licence to Drive a Private Hire Vehicle' or a 'Licence to Drive a Hackney Carriage' who have criminal or motoring convictions that are recent and/or serious must attend a hearing to discuss their past behaviour. The applicant will meet with an authorised officer and a Council solicitor.
- 2.2 In the case of private hire licensing, the hearing appointments are booked by the applicant using an online system whereby they choose a date and time convenient to them. An automated email is was sent to the applicant's email address confirming the time, date and location of the hearing.
- 2.3 If the applicant is absent at the time of the hearing, the officer will check with reception to see if the applicant has arrived. Failing that, they will telephone the applicant. Should there still be no response, the officer will check with the back-office for any correspondence advising that the applicant will not be in attendance. Should an explanation be found at any stage, the hearing is deferred and rescheduled at the applicant's convenience.
- 2.4 If the applicant will not attend the hearing, the officer has two choices. They can determine the application without the applicant, or they can choose to defer the decision and allow the applicant to make a new appointment.
- 2.5 Deferring the hearings has resulted in wasted time and often applicants fail to attend the re-booked hearing, without providing an excuse.
- 2.6 Due to the shortage of appointments, the Licensing Manager decided in March 2019 that officers should be encouraged to hold hearings in the absence of the applicant, should they fail to attend without reasonable excuse.
- 2.7 Recently, a hearing went ahead in the applicant's absence and the officer decided to refuse the applicant a licence, in accordance with the Council's 'Guidelines Relating to Relevance of Convictions and Breaches of Licence Conditions'. This decision was appealed at Wolverhampton Magistrates' Court.
- 2.8 When a licensing decision is appealed at the magistrates' court, a de novo hearing of the case is scheduled and the court can take into account any new evidence that is provided by either the appellant or the defendant.

- 2.9 In this case the judge decided that, on the basis of evidence submitted by the appellant at the de novo hearing, the officer was wrong to refuse to grant a licence.
- 2.10 Considerable time was spent preparing for the appeal and as the appellant's appeal was upheld, there was no cost recovery. In court, the applicant failed to provide a reasonable excuse for their absence at the hearing.

### **3.0 Proposed solution**

- 3.1 To avoid this situation from happening again, a new feature is being added to the online hearing appointment booking system. The applicant will receive an email ten days before the hearing, reminding them to attend their appointment, or that they have until seven days before to reschedule it.
- 3.2 There is significant demand for hearing appointments, with invitation emails sent out daily. It is believed that even a late cancelled appointment will be taken by another applicant.
- 3.3 It is proposed that, should there be no reasonable excuse provided nor any attempt to reschedule the hearing appointment, if the applicant fails to attend a hearing they will be required to pay for the cost of a new hearing before making an additional appointment. The reminder email will advise the applicant that failure to attend the hearing without cancellation or reasonable excuse will mean they will be required to pay for its cost before booking another. Where a reasonable excuse is provided, the cost of the hearing may be waived.
- 3.4 The cost of a 30-minute hearing has been calculated as £70, using the chargeable fee of £67 per hour for a Section Leader and £72 per hour for a Solicitor. The applicant will not be charged for any additional time, should the hearing take longer than scheduled.
- 3.5 This financial deterrent should encourage applicants to reschedule their appointment or advise Licensing Services that they will not be in attendance. This will improve the efficiency of hearings.

### **4.0 Financial implications**

- 4.1 Full cost recovery of the officers' time will reimburse the council fairly.

[KP/09092019/T]

### **5.0 Legal implications**

- 5.1 This proposal does not contravene any part of The Local Government (Miscellaneous Provisions) Act 1976, which governs private hire licensing, nor The Town Police Clauses Act 1847, which governs hackney carriage licensing.

[SH/06092019/C]

**6.0 Equalities implications**

6.1 There are no equalities implications.

**7.0 Climate change and environmental implications**

7.1 There are no climate change and environmental implications.

**8.0 Schedule of background papers**

8.1 Not applicable.