

- Email 1 -

Good afternoon,

I have reviewed the consultation paper regarding the proposed fee increase.

I understand the main reason for the increase is to cover costs regarding the implementation of the Govt's paper "Statutory taxi and private hire standards".

If the proposed fees are adopted, how much will be raised by the increases and how does UDC plan to spend the money?

There appears to be no increase in driver licences. Is this correct?

I note from the documents supplied by Russell Way the UDC has:

- 12th highest number of drivers in the UK
- 7th Highest number of licensed vehicles
- 10th highest number of operators
- We have 28 PHV per 1000 people – most are 1-2 PHV per 1000

I suspect that the reasons behind points 1, 2 and 4 are caused by one particular operator supplying a large number of school transport in various locations around the country and the same operator having the airport franchise. If that one operator is removed from the figures, how does that then align UDC in the country?

It concerns me, I'm sure that it does Licensing too, that so many of your approved drivers and vehicles are operating out of the district and any negative feedback / publicity could have an impact on us all. Has UDC considered a tier fee for operators in a manner such as TFL do? Addison Lee, for example pay TFL over £700,000 for a 5 year operator's licence. Is it worth considering a scheme where the more vehicles that an operator has, the greater the fee that they pay?

There's been some large fee increases during the 5 years that I have been an operator, significantly above the rate of inflation, and in the current climate where most operators have seen a large drop in income. Can it be really justified?

Kind Regards,

- Reply Email 1-

Thank you for your email

The fees and charges are set at nil capital cost to Uttlesford Council. This means that the income derived therefrom covers the expenditure of the council in providing the service, eg processing applications, administration etc. This is reviewed yearly and for the next financial year we will incur some additional costs to meet the new mandatory DfT Standards.

You are correct there is a £2 increase in driver fees.

I note your point with regard to one Uttlesford operator. However it is immaterial to the fee charged if that operator is removed from the equation, the fee set per application, calculated upon the basis of the cost of the time taken to do the work will still be the same, but the number of Uttlesford staff would decrease as the expenditure would be less, though the income would still need to cover staff costs.

To meet the Standards we are proposing that there be an increase in staff which will be used to carry out greater enforcement activity, some of which will be carried out from a distance..

I appreciate that TFL and other councils charge a levied fee depending on the number of vehicles that are used by each operator. However it is our belief that this is not good practise and we have been advised such a policy could be challenged.

The fee increase is necessary in order to cover the additional compliance processes that the DfT Standards places upon the Council. These are mandatory, declining to adopt them is unfortunately not an option and Uttlesford have to fulfil this obligation.

With best wishes

Russ

Russ Way

Licensing and Compliance Manager

- Email 2 -

Dear Mr Way

Many thanks for arranging the meeting with officers and Cllr Lavelle. XXXXXX, you are aware that pandemic has devastated the local and PH trade.

I would like to object to the increase in Vehicle licence fees of between 34% and 51% under normal conditions this would be looked at as being a substantial increase and not a minimal increase. I understand that the increase is required in order for you to employ an addition enforcement officer however the additional revenue would be in the region of £80,000. This is a good deal greater than the costs of an enforcement officer.

If the officer is to be involved with all agency checks at Stansted airport the costs should come from recovery of moneys from prosecution or the public purse and not from the local trade, as these costs cannot form a part of the recovery of licence fee costs. Please can you explain the utilisation of the additional staff member along with the additional moneys that are being applied to vehicle costs.

Please could you also explain why in the past two years we have been given sight of abbreviated accounts when in the past we were supplied with full licensing accounts with the spite between Hackney and PH against the other licensing costs. This arrangement was the agreed format following the agreement reached with the Licenced trade after the discovery of in excess of £160,000 being wrongly charged to the licenced trade under the 1976 act.

Furthermore I ask that you take the following into account.

Since midsummer it has become extremely obvious that the support for Taxi & Private Hire Vehicle Drivers, including chauffeurs has been extremely limited. This is in spite of the fact but these drivers have been in one of the highest 'at risk' groups of workers.

Support from government has been limited, this in part is because grant assistance does not take account of the need for these drivers to continue and maintain their vehicle and driver licence statuses, vehicle repayment costs and insurance. Those working also have the additional costs of facial coverings, PPE and cleaning materials.

These drivers have not been helped by bounce back loans, the excellent furlough scheme or by Central government grant money that for instance covers council tax or defers VAT payments.

Whilst some drivers have been fortunate enough to get some payment holidays for their vehicles, where they have been secured these have been short lived and the expenditure needed to make repayments is in no way met by the money available to the self-employed driver.

Where support is available, it is rules based, complex and difficult to secure, often leaving drivers with no easy route to support.

In many cases, parts of the working population of drivers, particularly in the airport transfer, hospitality and events supporting part of the industry there has been no work at all. Drivers have been encouraged by government, the NHS, ambulance services, rail and air disruption service providers and the educational sector to be available during the pandemic.

Even where there is work for drivers it is much reduced and subject to the vagaries of the pandemic. Drivers for example that had been expected to be available and ready for contracted work, for the entities above, have been laid off with no notice for example when they are contacted by track and trace to say that they have been in close proximity to someone who has shown as positive for Covid-19.

The biggest dilemma for drivers trying to survive and do some work during the pandemic are the overheads that they need to keep in place despite the massive downturn in work or the fact that work can be terminated or withdrawn at a moment's notice.

You will be aware that In July I wrote to Secretary of State for Transport the Rt. Hon. Grant Shapps MP and said I am writing to draw your immediate attention to serious problems risking the sustainability of the private hire (taxi) industry. It is my considered opinion, following events culminating over recent days, that a significant part of the sector may collapse this summer.

Sadly, I was right as there are many closures of smaller operators, serious reductions of drivers returning to the trade, with Taxis & Private Hire Vehicles being stockpiled off road.

The industry needs all the help it can get to keep going and return when the pandemic is over. It cannot sustain vehicle costs increasing by 39 to 51% we are in danger of not being able to serve the greatly reduced trade that is there and therefore will not be in a position to adequately meet the public safeguarding that is expected of the public. We need availability of licenced drivers and vehicles in order to be able to carry out this function.

I therefore ask you to reevaluate the requirement of an extraordinary large vehicle licence fee increase.

- Reply Email 2 -

Thank you for your email. I apologise for the delay in replying.

The increases on vehicle fees are not only due to the cost of the additional Enforcement Officer but also

- the cost of the new plates, dash badge and door signs that the Licensing Committee now require, some of which is required under the new Standards.
- additional technical help from Uttlesford staff (not in the licensing team) to help work with our garages “

My understanding on the finance issue that you raise is that accounts have been provided which show in sufficient detail the breakdown of all costs incurred and income received for Taxi licensing activities and the movement on the licensing reserve.

I am grateful for your comments in regard to the plight of the trade. It is clear that like other industries it has been a very challenging time for companies and individuals and there is still an uncertain future for the trade. As you are aware the Government have set mandatory Standards and Uttlesford must now work with the trade and stakeholders to reach them. This will not be easy and there will be a number of challenges and costs that will need to be met by the council, operators and stakeholders alike in order to achieve the required standards.

Unfortunately this is not easy and comes at a very difficult time for us all, but to embed new policy, processes and compliance we will need additional officers.

Kind regards

Russ Way

Licensing and Compliance Manager

- Email 3 -

Dear Mr Way

Many thanks for the opportunity of the 24/11 informal forum with officers and to Cllr Lavelle for attending as observer. Doug Perry, Andy Mahoney, Robert Sinnott, Richard Ellis and I have since met to consider and develop ULODA's formal response to the consultation. We believe our comments are fair, reasonable and in the spirit of the current national pandemic which has hit the local taxi trade so hard.

Our first objection is that the trade is being asked to accept a massive increase in fees and charges for vehicles of an estimated 34% to 51% (excluding transfers). Your report to the Licensing Committee (para 4) says "the proposed increase is quite minimal". Well, it isn't, is it? It may be quite minimal for drivers and operators, (estimated to be between 0.9% and 3.6%) but to seek or impose an increase of at least 34% on vehicle fees is neither fair nor reasonable in any circumstances. Thus we ask Members to reject it on the grounds that it IS fair and reasonable to use the Council's general fund to cover the projected cost of an additional compliance officer as proposed in the report (para 4). You will probably be aware (your colleague Liz Smith certainly will) of a recent case (Wakefield MBC, 2019): the general proposition that LA licensing activities should be self-funding does NOT apply to taxi licensing - because of the limited powers given to local authorities by LGMPA. The Council has a discretion to carry forward any deficit and seek to recover it via increases in future years and to make up for any shortfall via the general fund. So why not Uttlesford being helpful to the trade by absorbing the proposed cost of an extra FTE head?

A further consideration is to challenge one of the assumptions underpinning the forecast expenditure (Appendix A). Note (b) i) uses 2% to cover pay awards for planning purposes. It is prudent, we suggest, to reduce this annual inflation assumption to NIL or at best 1%. Please ask your accounting colleague Brian Stuart to recalculate the projections and forecasts to reflect these lower inflation figures. Using the 2% figure, our calculations show that the proposed increase varies from 0.9% to 3.6% for drivers and operators: using a NIL or 1% inflation assumption will, we believe, reduce any increase to close to ZERO. The Council will thus be showing its willingness to be sympathetic to the trade's financial interests at this difficult time by NOT increasing licence fees. Please help us by being fair and reasonable in order to earn our heartfelt thanks when the taxi trade is being seen in the media as "the forgotten industry". A win for Uttlesford is a win for the trade.

Our final thought is to mount a legal challenge to the fee increase. We have taken advice from a leading Barrister in the trade to confirm that the licensing costs which are recoverable by an LA in respect of vehicles and operators are limited to vehicle inspection costs for the specific purpose of determining their suitability to be licensed, reasonable cost of providing hackney carriage stands, reasonable administration costs for processing licence applications and reasonable costs associated with the control and supervision of hackney carriage and private hire vehicles. Please ask Liz Smith if she will kindly check with her QC contact that our interpretation of s.53 and s.70 is correct. UDC will need to be particularly fastidious in its licensing accounting in order to avoid the prospect of a Judicial Review or a complaint to the Local Auditor, who can require the Council to act to rectify and remedy any errors via a statutory High Court declaration.

We are sure that such external action will not need to be contemplated if the Council is persuaded to adopt an internal accounting approach and apply a ZERO increase in licence fees on 01 April 2021. This is not creative accounting, but rather prudent financial management.

We look forward to discussions with officers continuing in a spirit of mutual collaboration and commitment.

Kind regards

-Reply to Email 3 -

Thank you for your response. I apologise for the delay in answering your email.

The fees and charges UDC sets are calculated to ensure that we move towards compliance with the mandatory DfT Standards in the shortest possible time. This poses additional challenges to the licensing authority that we must meet. This will not be easy, will take time and will involve further financial outlay.

The Council has considerable work still to do with operators and other stakeholders to ensure that we all embrace the Standards and ensure the safety of the travelling public. To do this we will unfortunately incur considerable additional, administrative costs necessary to enable the Council to start to embed greater oversight of Hackney and Private Hire drivers, vehicles and operators. All of this will lead to greater safety for our community.

The question you raise for absorbing the FTE is a political one and not for me to answer

In regards to the 1% increase. A 2% forecast for salaries inflation is believed to be appropriate given that all licensing staff could be contractually entitled to a salary increment next year (on top of any pay award) depending on performance appraisals.

Uttlesford Council faces unique challenges in that it has one of the largest fleets of licensed vehicles in the country, many of which work remotely in areas, which are many miles from Uttlesford. We are not entitled to refuse an application purely because of location. Under section 70 (A)(c) Local Government (Miscellaneous Provisions) Act 1976 the fees can be set at a level including anything that is connected with the administration and enforcement of the entire hackney carriage and private hire operation. Caselaw confirms this will include vehicle inspections, administration of vehicle records, random checks etc: see [R \(Rehman\) v Wakefield City Council - Court of Appeal on taxi licensing fees \(cholland.com\)](https://www.cholland.com) for further information regarding this.

Given the large number of vehicles located remotely from Uttlesford, it is necessary to fund additional trained officer(s), otherwise the council will not meet the standards of safety and safeguarding that the Government require..

We continue to recognise the concerns for the Trade that arose from the historic accounting error under a previous licensing regime . Lessons were learnt and moving forward UDC has and will continue to ensure that our fees and charges setting process remains open and transparent. We are confident that the current engagement process is not only legally compliant and fit for purpose but most importantly for us all at a local level remains within the spirit of any historic agreement designed to prevent such an error occurring again. Mutual respect and confidence in the ability to trust is a very important concept.

The account details as presented do provide sufficient information and clarity as to how the service costs are calculated and identify the necessary increases and why they are incurred. The written consultation process is further facilitated by face to face meeting(s) that continue to allow Trade representatives opportunity to raise specific issues with management, the licensing accountant and licensing officers relating to these figures.

To confirm the process for setting Council licensing fees and charges abides by the following.

- The Council will ensure that any charges which an applicant may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures and shall not exceed the cost of the procedures.
- The Council cannot use licence fees to raise revenue generally and will carry forward surplus or deficit
- The Council when implementing its licensing fees and charges over a 3 year cycle will take account on fluctuations in demand for licences and look to minimise the need to review and amend the charging structure annually.
- The Council cannot “lump” all licence fees together and each charging regime e.g. premises licences will be separately accounted for

If the Trade are of the opinion we have not met these principals the option for Judicial / Local auditor review remains, such review would generally require one of the following to have been breached

1. Illegality – failure to follow the law properly
2. Irrationality – demonstrably unreasonable as to constitute ‘irrationality’
3. Procedural impropriety/unfairness – act so unfairly that it amounts to an abuse of power

I hope this answers your questions

Thank you

Russ Way

Licensing and Compliance Manager

- Email 4 -

Dear Chairman and members of the Licensing Committee

I would like firstly to extend my thanks and appreciation to Committee chairman, Cllr Lavell, for his time in observing the meeting hosted by Mr Way on 24th November. He will certainly be aware from that meeting that there are grave concerns, voiced by the trade, about the viability of the sector in the face of impacts of the Pandemic, the statutory guidelines recommendations and political decisions made by the committee regarding the trade in Uttlesford.

These are all changes imposed on the industry over a very short period of time and have undoubtedly put businesses within Uttlesford under tremendous pressure, even before factoring in the effects of the pandemic. My experience with PSV, another asset capital intensive industry, changes are normally dealt with over 10 to 20 year lead times.

I respectfully request that the proposed increases be refused on the following grounds:

The impact of the downturn in trade as a result of the pandemic has not yet been fully felt or assessed. Additional financial burden can only exacerbate these impacts on an industry requested by the authorities to be available at very great personal risk (physical and financial). Even with the potential vaccine, it will take many months before the roll out has been completed and some-time longer again for the hoped for effectiveness to become apparent. What will become of peoples' travelling habits in the meantime is yet another unknown? Licensing is cost reclaim. There already exists a surplus (so more than reclaim). Excess spend can be reclaimed through licence fees, not before.

I believe the officers have not made their case for additional spend. A 28 day lead time to process licenses on top of highly restricted application periods for licenses does not mean the case is proven, rather it suggests to me there are issues in the processing of the licenses and their delivery. I believe it was confirmed in the meeting of the 24th the new administration software is both more costly and less efficient..yet we are expected to pay for this?

I understand Andy Mahoney has questioned the legitimacy of charging the trade for an enforcement officer employed with multi agency compliance at Stansted Airport. This is a matter of public safety at an international travel interchange (such trade as it currently does), involving vehicles and operators from many districts and should be funded centrally(Uttlesford Central Fund0, not by the Uttlesford trade.

Finally, my greatest concern about the current situation: the visibility of the detail of the licensing accounts. I have noted that for the past two years, detailed accounts have been replaced by financial summaries or abbreviated accounts. In truth these tell us very little and most importantly are not the agreement that the Licensing Committee agreed and committed to after the previous costing debacle. The full and detailed accounts being made available to the trade were seen as a critical safe guard against a repeat. The trade is now being asked again for huge licence increases whilst entering a time of massive financial uncertainty highly reminiscent of

2008 and detailed accounts are not being readily (as committed to by the licensing committee) given up. "Trust us" is not an adequate defence. Both the trade and the committee sleep walked into the previous problem. Please do not knowingly allow the problem to reoccur. Until and when the impact of the current financial and public health problems are known, please do not impose further costs on the taxi and private hire trade.

- Reply Email 4-

Thank you for your email. I apologise for the delay. I note the following comments in your email which I hope addresses your comments

- The full potential of the software has not been considered within the fees and charges. This is because it is still in test mode.
- The new enforcement officer will not be working full time at Stansted airport. They will be operating in any location in which there is perceived greater risk dictated by intelligence and complaints and engagement with stakeholders on reactive and proactive
- As you are aware the DfT Standards have been imposed on the licensing authority under statute. We have no choice but to do so and are being monitored upon our compliance.. It is important that the council works with operators and stakeholders to ensure we all work towards a common goal, namely ever greater public safety. There is no doubt that to attain those Standards there will be an additional cost on all of us.
- Legal experts have already engaged with councils en masse and have provided training on how this should be done. As we are obliged to in order to meet our own professional obligations, officers of UDC and some Committee members have engaged with that training and in order to achieve these standards the fees and charges have started to reflect this change that we will need to make next financial year.
- Accounts have been provided which show in sufficient detail the breakdown of all costs incurred and income received for Taxi licensing activities and the movement on the licensing reserve.

Kind regards

Russ

Russ Way

Licensing and Compliance Manager