
NORTH AYRSHIRE COUNCIL

13 January 2021

Licensing Committee

Title:	Review and Fixing of Taxi Scales (Civic Government (Scotland) Act 1982, Sections 17 to 18A)
Purpose:	To advise Committee of procedure
Recommendation:	That the Committee agree: (a) to approve the proposed timetable for the Review and Fixing Process, as set out in the Appendix to this Report; and (b) to approve the suggested process of Trade Consultation with Taxi Operators.

1. Executive Summary

- 1.1 The Licensing Committee exercise the functions of the Council as "Licensing Authority" under many statutes, including the Civic Government (Scotland) Act 1982 (as amended by the Criminal Justice and Licensing (Scotland) Act 2010).
- 1.2 Taxi fares and other charges are limited to the Scales fixed by the Licensing Authority (1982 Act, Section 17). These are the maximum amounts which may be charged. It is open to Operators to discount these rates if they wish. The fares charged by Private Hire Cars are not regulated.
- 1.3 The Licensing Authority must periodically review the Scales and fix new Scales. Before the Coronavirus Emergency the decision to fix new Scales had to occur within 18 months of the current Scales coming into effect. The current Scales came into force on 22 July 2019 so the Licensing Authority would have had to fix the new Scales by 22 January 2021. The current Scales remain in effect whether or not they are reviewed by that date. Due to the Coronavirus Emergency the review process has been delayed, as it depends on meetings of the Committee and Trade Consultation, neither of which were possible until virtual meetings using remote participation were established. Since virtual meetings have now been established, this Report proposes a variant of the 'normal' review process.
- 1.4 The Appendix to this Report sets out a possible timetable for the review process. There is a statutory obligation to consult with Taxi Operators.

2. Background

2.1 The procedure for reviewing and fixing Scales is set by the 1982 Act, and consists of a number of stages:

(a) First Committee Meeting - Trade Consultation (Section 17(4A)(a))

Before fixing Scales, the Licensing Authority must consult with persons or organisations appearing to it to be, or to be representative of, the operators of taxis operating within its area. The legislation specifies that consultation must happen, but does not prescribe the form that that consultation must take. Although later stages of the review process involve consultation with the general public, Stage (a) only involves the Trade. Before the Coronavirus Emergency, consultation proceeded by Taxi Operators meeting Committee Members in one of the meeting rooms at Cunninghame House. The Council would send letters to the principal trade associations and to individual holders of Taxi Licences inviting them to attend. Since this is no longer possible, the alternative is to invite the associations and operators to participate in an online virtual meeting. The proposal now is to email the associations and the operators for whom the Council have email addresses, inform them of the date and time of an online meeting with Committee Members, and invite them to respond if they wish to participate in that meeting. Anyone who confirms a wish to participate will later be sent joining instructions. This procedure is now regularly used to allow Licence-Applicants to participate in Committee Meetings and works well. In addition a Notice would be posted on the Council's Facebook page explaining the procedure and telling operators how they can participate. The Notice would ask operators wishing to participate to contact the Licensing office to register their interest. Whether or not operators wished to participate directly, they would be told that they could make representations by sending emails to the Licensing office.

(b) Second Committee Meeting - Proposal (Section 17(4A)(b))

Following the Trade Consultation, the Licensing Authority must review the existing Scales, and propose new Scales, whether at altered rates or the same rates; (at this stage all that the Council are doing is proposing new Scales; the decision to fix them does not happen until later, after public consultation;

(c) Public Consultation - First Advertisement (Section 17(4A)(c))

Following such Review the Licensing Authority must publish the proposed Scales in a newspaper circulating in its area, stating that any person may make representations in writing until a specified date falling at least one month after the first publication. Previous advertisements have appeared in local newspapers.

(d) Third Committee Meeting - Fixing the Scale (Section 17(2))

The Licensing Authority must consider such representations, and fix the Scales.

(e) Notification to Trade (Section 17(4D)..17(5))

The Licensing Authority informs both individual operators and trade organisations within 7 days of the Scales being 'fixed'. Any of them may appeal to the Traffic Commissioner within 14 days of receiving Notice, and Appeal suspends the decision to fix new Scales (Section 18(4)).

(f) and (g) Second Advertisement (Section 18A)

The Licensing Authority is to publish the new Scales in local newspapers. The date of publication depends on whether or not there is an appeal:

- If there has been no appeal, publication occurs as soon as practicable after the expiry of the 14-day appeal period.
- If there is an appeal, publication occurs as soon as practicable after the determination of the appeal.

Publication is not a 'consultation', but is simply informing the public that the new Scales have been fixed and will shortly come into effect.

3. Proposals

3.1 It is proposed that the Committee agree to:

- (a) approve the proposed timetable for the review process as set out in the appendix to the report; and
- (b) set a date and time to meet with the Trade to carry out Trade Consultation (Stage (a)).

4. Implications/Socio-economic Duty

Financial

4.1 The Taxi fare structure has substantial implications for both the trade and the community. In addition, legal costs to the Licensing Authority may arise if the fare review becomes subject to an appeal to the Traffic Commissioner, which may affect future Licence fees.

Human Resources

4.2 None.

Legal

4.3 Possible appeal to the Traffic Commissioner.

Equality/Socio-economic

4.4 None. An "Equality Impact Assessment" is not considered necessary. There are no socio-economic implications of the proposals. None. An "Equality Impact Assessment" is not considered necessary. There are no socio-economic implications of the proposals.

Environmental and Sustainability

4.5 None.

Key Priorities

4.6 North Ayrshire Council has priorities for Aspiring Communities in the Council Plan 2019-2024. An effective licensing system, e.g. monitoring the 'fit and proper' status of hire-car drivers and the safety of their cars, helps achieve Priority Outcome: "North Ayrshire's residents and communities are safe".

Community Benefits

4.7 Not applicable, as the Report does not relate to tendering or procurement exercises.

5. Consultation

5.1 No consultations are necessary or appropriate at this stage of the statutory process, which will later involve consultation with the Trade and the general public.

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For further information please contact **William O'Brien, Solicitor (Licensing)**, on **01294 324305**.

Background Papers

Possible timetable – Taxi Fare Review 2021 (GEN17)

Possible timetable - Taxi Fare Review 2021

(Stages as described in Report)

Stage	Action	Date
(a)	Meeting with taxi trade representatives/taxi operators to discuss proposals, consider revisions and finalise draft tariff	To be arranged
(b)	Licensing Committee meeting to approve finalised draft tariff and to authorise advertisement of the proposed tariff in local press	Wednesday 10 February 2021
(c)	Newspaper advertisement for Public Consultation	as soon as possible after (b)
(d)	Licensing Committee meeting to consider representations, to fix new Scales, and set Effective Date (subject to appeal). This meeting is to be at least one month after the first publication by the authority of the proposed Scales.	Wednesday 21 April 2021
(e)	Notification to Trade that new Scales have been fixed - within 7 days of the Stage (d) Meeting	Wednesday 28 April 2021
(f)	Advertise new Scales (if no appeal to the Traffic Commissioner)	Not less than 14 days after the Notification in Stage (e)
(g)	Advertise new Scales (if there is an appeal)	as soon as practicable after the determination of the appeal.