

# AGENDA

## Regulatory Committee

Date: **Tuesday 3 August 2010**

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Time: **2.00 pm**

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Place: **The Council Chamber, Brockington, 35 Hafod Road,  
Hereford**

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Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

**Pete Martens, Committee Manager Planning & Regulatory**

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If you would like help to understand this document, or would like it in another format or language, please call Pete Martens, Committee Manager Planning & Regulatory on 01432 260248 or e-mail [pmartens@herefordshire.gov.uk](mailto:pmartens@herefordshire.gov.uk) in advance of the meeting.

# Agenda for the Meeting of the Regulatory Committee

## Membership

<b>Chairman</b>	<b>Councillor JW Hope MBE</b>
<b>Vice-Chairman</b>	<b>Councillor PGH Cutter</b>
	<b>Councillor CM Bartrum</b>
	<b>Councillor SPA Daniels</b>
	<b>Councillor JHR Goodwin</b>
	<b>Councillor RC Hunt</b>
	<b>Councillor Brig P Jones CBE</b>
	<b>Councillor PJ McCaull</b>
	<b>Councillor GA Powell</b>
	<b>Councillor A Seldon</b>

## **GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS**

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is. A Councillor who has declared a prejudicial interest at a meeting may nevertheless be able to address that meeting, but only in circumstances where an ordinary member of the public would be also allowed to speak. In such circumstances, the Councillor concerned will have the same opportunity to address the meeting and on the same terms. However, a Councillor exercising their ability to speak in these circumstances must leave the meeting immediately after they have spoken.

## AGENDA

	Pages
<p><b>1. APOLOGIES FOR ABSENCE</b> To receive apologies for absence.</p>	
<p><b>2. NAMED SUBSTITUTES (IF ANY)</b> To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.</p>	
<p><b>3. DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
<p><b>4. MINUTES</b> To approve and sign the Minutes of the meeting held on Tuesday 6 July 2010.</p>	1 - 6
<p><b>5. LICENCE FEES FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES</b> To consider amending a fee in relation to licensed vehicles.</p>	7 - 10
<p><b>6. PROCEDURAL ARRANGEMENTS</b> To note the procedural arrangements for the meeting.</p>	11 - 12
<b>EXCLUSION OF THE PUBLIC AND PRESS</b>	
<p><b>In the opinion of the Proper Officer, the following item will not be, or is likely not to be, open to the public and press at the time it is considered.</b></p>	
<p><b>RECOMMENDATION:</b></p>	<p><b>that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below:</b></p>
<p><b>The disclosure of Information which is likely to reveal the identity of an individual.</b></p>	
<p><b>7. DUAL HACKNEY CARRIAGE &amp; PRIVATE HIRE DRIVER'S LICENCE</b> To consider matters regarding a dual licence holder.</p>	13 - 16
<p><b>Background Papers - Agenda Item 7 - Appendix 1</b></p>	
<p><b>8. DUAL HACKNEY CARRIAGE &amp; PRIVATE HIRE DRIVER'S LICENCE</b> To consider an application for a dual licence.</p>	17 - 20
<p><b>Background Papers - Agenda Item 8 - Application Form</b></p>	
<p><b>9. DUAL HACKNEY CARRIAGE &amp; PRIVATE HIRE DRIVER'S LICENCE</b> To consider an application for a dual licence.</p>	21 - 24
<p><b>Background Papers - Agenda Item 9 - Application Form</b></p>	
<p><b>9. DUAL HACKNEY CARRIAGE &amp; PRIVATE HIRE DRIVER'S LICENCE</b> To consider an application for a dual licence.</p>	25 - 28
<p><b>Background Papers - Agenda Item 9 - Application Form</b></p>	
<p><b>9. DUAL HACKNEY CARRIAGE &amp; PRIVATE HIRE DRIVER'S LICENCE</b> To consider an application for a dual licence.</p>	29 - 32
<p><b>Background Papers - Agenda Item 9 - Application Form</b></p>	
<p><b>9. DUAL HACKNEY CARRIAGE &amp; PRIVATE HIRE DRIVER'S LICENCE</b> To consider an application for a dual licence.</p>	33 - 36



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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
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## **HEREFORDSHIRE COUNCIL**

**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

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HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Regulatory Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Tuesday 6 July 2010 at 2.30 pm**

**Present:** Councillor JW Hope MBE (Chairman)  
Councillor PGH Cutter (Vice Chairman)

Councillors: CM Bartrum, DJ Benjamin, SPA Daniels, JHR Goodwin, RC Hunt, PJ McCaull, GA Powell and JD Woodward

**12. ELECTION OF CHAIRMAN AND APPOINTMENT OF VICE-CHAIRMAN**

The Committee noted that at the meeting of Council on 28 May 2010, Councillor JW Hope MBE was elected as Chairman of the Regulatory Committee and Councillor PGH Cutter was appointed Vice-Chairman.

**13. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor A Seldon.

**14. NAMED SUBSTITUTES (IF ANY)**

Councillor JD Woodward was noted as a substitute member for Councillor A Seldon.

**15. DECLARATIONS OF INTEREST**

There were no declarations of interest made at the meeting.

**16. MINUTES**

**RESOLVED: THAT the Minutes of the meeting held on 1st June 2010 be approved as a correct record and signed by the Chairman.**

**17. PROCEDURAL ARRANGEMENTS**

The Committee noted the procedural arrangements for the following items to ensure that Officers and applicants received a fair hearing.

**RESOLVED: THAT under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Schedule 12(A) of the Act**

**18. HIGHWAYS ACT 1980, SECTION 119, PROPOSED PUBLIC PATH DIVERSION ORDER - FOOTPATH MB4 MUCH BIRCH**

The Parks, Countryside and Leisure Development Manager presented a report about an application for a Diversion Order under the provisions of Section 119 of the Highways Act 1980 in respect of part of Footpath MB4 in the parish of Much Birch. He said that the application had originally been submitted in 2005 by the land owner whose reasons for making the application were, 'health and safety during building works and some privacy to the home once complete'. He advised that pre-order consultation was undertaken and the

proposal had general agreement although the Open Spaces Society and the Ramblers Association both made suggestions, which the applicant had noted and amended his proposals accordingly.

**RESOLVED:**

**That a Public Path Diversion Order be made under Section 119 of the Highways Act 1980, to divert Footpath MB4 (part), in the parish of Much Birch, as illustrated on plan D374/274-4.**

**19. ADOPTION OF SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISC PROVISIONS) ACT 1982**

The Licensing Officer presented a report regarding the adoption of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and the amendments created by Section 27 of the Policing and Crime Act 2009.

**RESOLVED:**

**That Committee adopt Schedule 3 and the amendments of Section 27 which gives power to regulate lap dancing clubs and similar venues subject to any ratification which may, or may not, be required by Council.**

**20. REVIEW OF A THREE YEAR DUAL (HACKNEY CARRIAGE AND PRIVATE HIRE) DRIVER'S LICENCE**

The Regulatory Services Manager presented a report about problems arising from drivers who had failed to renew their driver's licences; or provide the necessary evidence of a CRB check; or medical renewal when necessary. He said that the current three-year rolling programme for dual hackney carriage/private hire driver's licences was introduced in April, 2007. This had included a requirement that drivers needed to provide an annual self-declaration regarding the status of their medical and their CRB. The Council's budgeting arrangements also required drivers to pay an annual fee, rather than a single payment to cover each three-year period. This also helped to spread the costs for drivers. He said that despite sending two reminder letters, 74 drivers had failed to submit their self certifications which equated to a loss in revenue of £3,330.

In response to a number of questions from members the Senior Litigator advised that recorded delivery would not be necessary as first class post was accounted as good service through the magistrates court and was their preferred method for important documents such as court summons, etc.

In response to a question regarding the first reminder being issued 12 weeks before the deadline, the Licensing Officer advised that this timescale was necessary due to the time taken for CRB's to be processed.

**RESOLVED:**

**That:**

**the Dual Driver Badge continues to be a 3 year renewal until the licence fees can be fully cost accounting reviewed to include an annual fee; and**

**those drivers with outstanding payments, self-declaration forms, Criminal Record Bureau checks and medicals are given an automatic suspension notice following two reminders sent by first class post to the address furnished by each driver to**



the licensing authority. There shall be a minimum of 7 days between each notice and the service of the suspension notice.

**21. APPLICATION FOR A DUAL HACKNEY CARRIAGE & PRIVATE HIRE DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Principal Lawyer and the Licensing Officer referred to agenda item No. 10 regarding an application for a dual hackney carriage/private hire licence. The applicant and his representative provided the Committee with the reasons why they felt that he should be granted a licence.

Members noted that the applicant had previously held a dual hackney carriage/private hire licence and had declared his previous convictions.

Having considered all of the facts put forward by the Licensing Officer, the applicant, and the applicant's representative, the Committee decided that the applicant was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that his application for a Hackney Carriage/Private Hire driver's licence could be granted.

**RESOLVED:**

**that the Regulatory Services Manager be delegated to grant an application for a dual hackney carriage/private hire drivers licence.**

**22. APPLICATION FOR A DUAL HACKNEY CARRIAGE & PRIVATE HIRE DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Principal Lawyer and the Licensing Officer referred to agenda item No. 11 regarding an application for a dual hackney carriage/private hire licence. The applicant provided the Committee with the reasons why he felt that he should be granted a licence.

Members noted that the applicant had declared his previous convictions and that a considerable period of time had passed since the offences took place.

Having considered all of the facts put forward by the Licensing Officer and the applicant, the Committee decided that the applicant was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that his application for a Hackney Carriage/Private Hire driver's licence could be granted.

**RESOLVED:**

**that the Regulatory Services Manager be delegated to grant an application for a dual hackney carriage/private hire drivers licence.**

**23. APPLICATION FOR A DUAL HACKNEY CARRIAGE & PRIVATE HIRE DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Principal Lawyer and the Licensing Officer referred to agenda item No. 12 regarding an application for a dual hackney carriage/private hire licence. The applicant provided the Committee with the reasons why he felt that he should be granted a licence.

The applicant provided the Committee with details of the circumstances regarding his previous convictions. He advised that all of the convictions were more than twelve years old and he explained the reasons why he felt that he should be granted a licence.

Members noted that the applicant had declared his previous convictions and that a considerable period of time had passed since the offences took place.

Having considered all of the facts put forward by the Licensing Officer and the applicant, the Committee decided that the applicant was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that his application for a Hackney Carriage/Private Hire driver's licence could be granted.

**RESOLVED:**

**that the Regulatory Services Manager be delegated to grant an application for a dual hackney carriage/private hire drivers licence.**

**The applicant's version of events put before the committee should, where at all possible, be substantiated by officers and brought back to the committee's attention if found not to be correct.**

**24. APPLICATION FOR A DUAL HACKNEY CARRIAGE & PRIVATE HIRE DRIVER'S LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Principal Lawyer and the Licensing Officer referred to agenda item No. 13 regarding an application for a dual hackney carriage/private hire licence. The applicant provided the Committee with the reasons why he felt that he should be granted a licence.

The applicant provided the Committee with details of the circumstances regarding his previous convictions. He advised that the convictions were more than ten years old and he explained the reasons why he felt that he should be granted a licence.

Members noted that the applicant had declared his previous convictions and that a considerable period of time had passed since the offences took place.

Having considered all of the facts put forward by the Licensing Officer and the applicant, the Committee decided that the applicant was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that his application for a Hackney Carriage/Private Hire driver's licence could be granted.

**RESOLVED:**

**that the Regulatory Services Manager be delegated to grant an application for a dual hackney carriage/private hire drivers licence.**

**The applicant's version of events put before the committee should, where at all possible, be substantiated by officers and brought back to the committee's attention if found not to be correct.**

**25. DUAL HACKNEY CARRIAGE & PRIVATE HIRE DRIVER'S LICENCE - TO CONSIDER A MATTER REGARDING THE HOLDER OF A DUAL LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Regulatory Services Manager referred to agenda item No. 14 and provided the Committee with details of the circumstances which had given rise to the holder of a dual hackney carriage/private hire driver's licence having his licence suspended.

Members felt that the applicant should be given the opportunity to present his case before the Committee and therefore deferred consideration of the application until the next meeting.

**RESOLVED:**

**That consideration of the application be deferred.**

**26. DUAL HACKNEY CARRIAGE & PRIVATE HIRE DRIVER'S LICENCE - TO CONSIDER A MATTER REGARDING THE HOLDER OF A DUAL LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Regulatory Services Manager referred to agenda item No. 15 and provided the Committee with the reasons which had necessitated the need for an application for a dual Hackney Carriage/Private Hire driver's licence being referred to the Committee. The applicant provided the Committee with details of the circumstances which had given rise to him receiving a Police caution and explained the reasons why he felt that he should be granted a licence.

Having considered all of the facts put forward by the Licensing Assistant, the applicant and his representative, the Committee decided that the applicant was a fit and proper person under the meaning of the Local Government (Miscellaneous Provisions) Act 1976 and that his application for a Hackney Carriage/Private Hire driver's licence should be granted.

**RESOLVED:**

**that the Regulatory Services Manager be delegated to grant an application for a dual hackney carriage/private hire drivers licence.**

**The applicant's version of events put before the committee should, where at all possible, be substantiated by officers and brought back to the committee's attention if found not to be correct.**

**27. DUAL HACKNEY CARRIAGE & PRIVATE HIRE DRIVER'S LICENCE - TO CONSIDER A MATTER REGARDING THE HOLDER OF A DUAL LICENCE - LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976**

The Regulatory Services Manager referred to agenda item No. 16 and provided the Committee with details of the circumstances which had given rise to the holder of a dual hackney carriage/private hire driver's licence having his licence suspended.

Members noted that the applicant was no longer in possession of a UK driving licence and therefore deferred consideration of the application until such a time as the applicant's driving licence was restored.

**RESOLVED:**

**That consideration of the application be deferred.**

The meeting ended at 4.15 pm

**CHAIRMAN**



<b>MEETING:</b>	<b>REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>3 AUGUST 2010</b>
<b>TITLE OF REPORT:</b>	<b>TO CONSIDER AN AMENDMENT OF LICENCE FEES FOR HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES. THE TOWN POLICE CLAUSES ACT 1847 AND LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</b>
<b>PORTFOLIO AREA:</b>	<b>REPORT FROM ASSISTANT DIRECTOR (ENVIRONMENTAL HEALTH &amp; TRADING STANDARDS)  PUBLIC HEALTH DIRECORATE</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Countywide

### **Purpose**

To consider amending a fee in relation to licensed vehicles.

### **Key Decision**

This is not a key decision.

### **Recommendation(s)**

**THAT Committee:**

- (a) **agree to a £23 reduction in the fee for a licensed vehicle to take immediate affect.**

### **Key Points Summary**

- Current fees uplifted by 2% in June 2010.
- This 2% fee increase was calculated using a simple multiplier of the existing fees.
- New plate supplier now found which costs less than that used for the original calculation to determine the previous fee.
- Taxi Association has requested a reduction in fee to reflect the cheaper plates.

Further information on the subject of this report is available from  
Marc Willimont – Regulatory Services Manager 01432 261986

## Alternative Options

1 a) **Refuse to amend the fee**

**Advantages:** Does not reduce the Taxi Licensing income.

**Disadvantages:** Could increase an administration burden if claims are made for refunds.

b) **Reach some other decision**

## Reasons for Recommendations

2 Amendment is recommended as this is the fairest way to deal with the matter on a case by case basis, as each fee should equate to true cost. The original plate cost was included in the calculation for the total vehicle fee. Now that part of the cost within a fee has been reduced, the reduction in cost to the applicants should be passed on.

3 However, members should also be aware that the service should not be subsidised, yet it currently is estimated to subsidise the trade about £83,000 per year.

## Introduction and Background

4 The current taxi fees were increased by 2% in June 2010.

5 2% was added to the existing vehicle licence application fee, which had been calculated in 2007.

6 In 2007, a cost of £35 was included in the existing application fee which related to the cost of the licence plate at that time.

7 Recently a new supplier of licence plates has been sourced and the fee has been reduced from £35 to £12.

8 When the 2% increase was agreed it was calculated on the existing licence fee which did not take into account the reduction in the licence plate cost.

9 The Taxi Association have requested this fee be reviewed to avoid future claims for refunds due to the difference in costs.

10 A reduction in vehicle fees by £23 per application will have an impact on the income to the council. With a fleet of some 270 hackneys and 100 private hires, this will reduce the annual income by  $370 \times 23$  which approximates to £8500. The recent June 2010 Regulatory Committee report highlighted that the licensing service is already subsidised by some £83,000 even after the June 2% increases. A reduction in this income is likely to lead to this subsidy increasing to more than £90,000.

## Key Considerations

11 Whether to reduce the fee for vehicle licence application.

## Community Impact

12 No community impact.

Further information on the subject of this report is available from  
Marc Willimont – Regulatory Services Manager 01432 261986

## **Financial Implications**

- 13 A reduction of the vehicle fee by £23 per application will equate to an annual reduction in annual income by some £8500 to a service already heavily subsidised by about £83,000.

## **Legal Implications**

- 14 The Local Government (Miscellaneous Provisions) Act 1976 s.70 allows the local authority to levy fees. Individual licence costs should equal income and the total cost of service should equal total income.

## **Risk Management**

- 15 If the fees are not amended, claims for refund of fees could be forthcoming and will need to be defended on a case by case basis.

## **Consultees**

- 16 The fee amendments were advertised in a local newspaper for a period of two weeks prior to the 2% increase. It is not proposed to re-consult if the fee were to be decreased or remain the same.





**REGULATORY COMMITTEE**  
**LICENSING APPEAL PROCEDURE**

1. Introduction by Legal Advisor to the Committee.
2. Licensing Officer outlines the case.
3. Applicant (or his solicitor) sets out his case.
4. Questions asked by the Committee or Licensing Officer or Applicant.
5. Applicant (or his solicitor) asked if he would like to make further comment or representation, or if he requires time to comment or investigate (if so, Chairman defers application).
6. In dealing with each application, the applicant (and any representative) should also withdraw should be asked to withdraw when they have finished their presentation. All officers, other than the Legal Adviser to the Committee, should also withdraw. It would be preferable for the applicant and officers to await the decision at different locations.
7. If either the applicant or the officer are needed to furnish additional information, they should all be invited back before the Committee. When the additional information has been furnished, they should all be asked to leave again.
8. The Committee can then reach a decision in the usual way, but in the absence of parties.
9. The applicant and officers will then be invited to return. The Chairman will announce the decision. The Chairman should also say that the decision will be communicated in writing in due course, and that the applicant will be informed of any right of appeal (if the decision is one of refusal).
10. When the first applicant is finished, that applicant should leave. Deal with the second and subsequent applications in the same way.



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