
Report To:	General Purposes Board	Date:	9 June 2021
Report By:	Interim Head of Legal Services	Report No:	LS/060/21
Contact Officer:	David Keenan	Contact No:	01475 712189
Subject:	TAXI FARES REVIEW 2020/21		

1.0 PURPOSE

- 1.1 The purpose of this report is to ask the Board to determine the taxi fare scale and charges following its annual review.

2.0 SUMMARY

- 2.1 At the meeting on 26 February 2021, the Board following consideration of the papers before it, decided to adopt the scale of taxi fare and other charges set out in the note of tariff which forms Appendix 1 to this report.
- 2.2 It should be noted, further, that the tariffs set out by the local authority are the maximum fares that may be charged by the operators of taxis within Inverclyde.
- 2.3 The proposed taxi fare scales were duly advertised and objections and representations were invited within the statutory period of one month following the date of advertising. Representations have been made to the General Purposes Board on behalf of two local taxi operators. The Representations are set out in Appendix 2 to this report.

3.0 RECOMMENDATION

- 3.1 It is recommended that the Board :
- (a) Notes the terms of this report and considers the submissions made on behalf of two local Taxi Operators;
 - (b) Considers whether to uphold or reject the decision of the 26 February 2021 Board;
 - (c) Or, alternatively propose such other fare scales as the Board considers appropriate.

Anne Sinclair
Interim Head of Legal Services

4.0 BACKGROUND

- 4.1 The Council as Licensing Authority is obliged to fix scales for the fares and other charges in its area in connection with the fare of a taxi. Fares require to be fixed within 18 months beginning with the date on which the scales came into effect.
- 4.2 The last Taxi Fares Review was carried out during 2019 with a revised Taxi Fare Scale being fixed, which came into effect in November 2019.
- 4.3 The taxi trade were invited to submit their views on the taxi fares scales. The Board at its meeting on 26 February 2021 agreed to :
- i) Increase the initial flag fall across all tariffs by 1 %;
 - ii) Increase each additional yardage after the initial flag fall by 1% across all tariffs; and
 - iii) Remit to the Head of Legal and Property Services to advertise the proposals determined and report on the outcome once the statutory period for representations has lapsed.
- 4.4 The proposed scales were advertised in the local press in order that representations may be made by 16 April 2021. Representations have been received from TLT solicitors on behalf of Inverclyde Taxis and ABC Taxis, a copy of which is produced in Annex 2 to this report.

5.0 IMPLICATIONS

5.1 Finance

After fixing the scales, copies of the new tariff card require to be produced and issued to all taxi and private hire licence holders to be displayed in their vehicles .This will be funded from the licensing budget.

Staff costs of the fare review and meter calibration will be contained within Environmental and Public Protection existing approved budgets.

There will be a financial cost to the Licensing Team producing and issuing the above documentation. These costs will be met within existing licensing budgets.

5.2 Legal

In terms of Section 17 of the Civic Government (Scotland) Act 1982, the Council, as licensing authority, is obliged to review and fix the maximum sales of fares and surcharges so that they take effect within 18 months beginning with the date on which the previous scale came into effect.

Operators of taxis or any person or organisation to be a representative of such taxi operators can appeal to the Traffic Commissioner against any decision the Local Authority makes in respect of fixing fares and surcharges. Any appeal must be made to the Traffic Commissioner for the Scottish Traffic Area within 14 days of notice being given by the Licensing Authority.

5.3 Human Resources

There are no Human Resources Implications.

5.4 Equalities

Equalities

- (a) Has an Equality Impact Assessment been carried out?

	YES
X	NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, no Equality Impact Assessment is required

(b) Fairer Scotland Duty

If this report affects or proposes any major strategic decision:-

Has there been active consideration of how this report's recommendations reduce inequalities of outcome?

	YES – A written statement showing how this report's recommendations reduce inequalities of outcome caused by socio-economic disadvantage has been completed.
X	NO

(c) Data Protection

Has a Data Protection Impact Assessment been carried out?

	YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals.
X	NO

5.5 Repopulation

There are no repopulation implications.

6.0 CONSULTATIONS

6.1 The tariffs were advertised in the local press in order that representations may be made on the agreed proposal by a specified date at least one month from the date of the newspaper advertisement.

7.0 BACKGROUND PAPERS

7.1 None

INVERCLYDE COUNCIL**APPENDIX 1****Civic Government (Scotland) Act 1982****REVIEW OF TAXI FARES AND CHARGES 2021**

TARIFF 1	Hirings from ranks or "flag" hirings begun between 6am and 11pm	
	Initial charge (880 yards or part thereof)	£2.58
	Subsequent charge (each additional 291 yards or part thereof)	£0.31
	Approximate cost for first mile	£3.82
	Approximate cost for each additional mile	£2.17
TARIFF 2	Hirings from ranks or "flag" hirings begun between 11pm and 6am and all pre-booked hirings begun between 6am and 10pm	
	Initial charge (880 yards or part thereof)	£2.68
	Subsequent charge (each additional 282 yards or part thereof)	£0.31
	Approximate cost for first mile	£3.92
	Approximate cost for each additional mile	£2.17
TARIFF 3	Pre-booked hirings begun between 10pm and 6am and hirings from ranks or "flag" hirings on Easter Monday, May Day, Fair Saturday and Autumn Holiday	
	Initial charge (880 yards or part thereof)	£2.88
	Subsequent charge (each additional 247 yards or part thereof)	£0.31
	Approximate cost for first mile	£4.12
	Approximate cost for each additional mile	£2.48
TARIFF 4	Pre-booked hirings and hirings from ranks or "flag" hirings on 25 & 26 December and 1 & 2 January	
	Initial charge (first mile or part thereof)	£5.20
	Subsequent charge (each additional 247 yards or part thereof)	£0.31
	Approximate cost for first mile	£5.20
	Approximate cost for each additional mile	£2.48
EXTRAS	£1 per passenger after first four passengers	
WAITING TIME	For each period of 31 seconds or part thereof	£0.20
SOILING CHARGE	Charge dependent on severity up to a maximum of	£50.00
VAT	The foregoing charges are inclusive of Value Added Tax	

For the avoidance of doubt, a vehicle licensed for private hire which uses a taxi meter to charge for journeys is not permitted thereby to pick up hirings from a rank or any public place.

Inverclyde Taxis Ltd & ABC Taxis (Inverclyde) Ltd

Representations on proposed Taxi Scales

Proposed increase in taxi scales

1. At its meeting on 26 February 2021 the General Purposes Board (**the Board**) of Inverclyde Council (**the Licensing Authority**) decided to approve an increase of 1% on the current taxi scales applicable for the hire of taxis in its licensing area.

2. The statutory power provided to the Licensing Authority to fix scales for taxi fares is contained in section 17 of the Civic Government (Scotland) Act 1982 (the 1982 Act).

Section 17 of the 1982 Act

- (1) *The fares for the hire of taxis in any area and all other charges in connection with the hire of a taxi or with the arrangements for its hire shall be not greater than those fixed for that area under this section and section 18 of this Act.*

- (2) *The licensing authority must fix scales for the fares and other charges mentioned in subsection (1) within 18 months beginning with the date on which the scales came into effect.*

- (3) *In fixing scales under subsection (2), the licensing authority may—*
 - (a) *alter fares or other charges,*

 - (b) *fix fares or other charges at the same rates.*

- (4) *Before fixing scales under subsection (2), the licensing authority must review the scales in accordance with subsection (4A).*

- (4A) *In carrying out a review, the licensing authority must—*

- (a) *consult with persons or organisations appearing to it to be, or to be representative of, the operators of taxis operating within its area,*
- (b) *following such consultation—*
 - (i) *review the existing scales, and*
 - (ii) *propose new scales (whether at altered rates or the same rates),*
- (c) *publish those proposed scales in a newspaper circulating in its area—*
 - (i) *setting out the proposed scales,*
 - (ii) *explaining the effect of the proposed scales,*
 - (iii) *proposing a date on which the proposed scales are to come into effect, and*
 - (iv) *stating that any person may make representations in writing until the relevant date, and*
- (d) *consider any such representations.*

(4B) In subsection (4A)(c)(iv) “the relevant date” is a date specified by the licensing authority falling at least one month after the first publication by the authority of the proposed scales.

(4C) After fixing scales under subsection (2), the licensing authority must give notice in accordance with subsection (4D).

(4D) The licensing authority must—

- (a) *set out, and explain the effect of, the scales as fixed,*
- (b) *notify the persons mentioned in subsection (4E) of—*
 - (i) *the date on which the scales as fixed are to come into effect, and*

(ii) *the rights of appeal under section 18.*

(4E) *Those persons are -*

(a) *all operators of taxis operating within their area, and*

(b) *the persons and organisations consulted under subsection (4A)(a).*

3. Section 17(3) sets out the options available to the Licensing Authority. In effect, it may alter fares or other charges or fix them at the same rate. The process that the Licensing Authority requires to follow when fixing taxi scales is set out in section 17(4A) to (4E) inclusive. The process involves consultation with organisations such as Inverclyde Taxis Ltd and ABC Taxis (Inverclyde) Ltd (ITL and ABC), and publication of the proposed scales in a newspaper with confirmation of the date when the scales are to come into effect. It is also necessary for the Licensing Authority in terms of section 17(4D) to set out and explain to organisations such as ITL and ABC the effect of the scales as fixed, the date they come into effect, as well as the right of appeal to the traffic commissioner in terms of section 18 of the 1982 Act.
4. The Board having reached its decision on 26 February 2021 to apply a 1% increase to the existing taxi scales, the proposed new taxi scales were published in the Greenock Telegraph on 16 March 2021. The notice confirmed that anyone wishing to make representations on the proposed scales could do so in writing within one month of the advertisement.

Scottish Development Department Circular 25/1986

5. Section 17 of the 1982 Act fails to provide any indication of the factors or considerations the Licensing Authority should have regard to when fixing taxi scales. In seeking to identify the factors or considerations which the Licensing Authority requires to take account of, it is necessary to look at the '*Taxi and Private Hire Car Licensing: Best Practice for Licensing Authorities, Second Edition, April 2012*' guidance (the April 2012 Guidance) issued by the Scottish Government and to the guidance issued by the Scottish Development Department in 1986 in *Circular 25/1986*.

6. Paragraph 6.2 of the April 2012 Guidance is in the following terms:

“6.2 In the conduct of a tariff review, authorities are advised as best practice to pay particular regard to advice contained in paragraphs 2.34 – 2.37 of the Scottish Development Department Circular 25/1986. The Circular advises on the frequency of reviews, need for consultation, relevant considerations and the right of appeal.”

In short the April 2102 Guidance merely reflected the 1986 Guidance which is where the Licensing Authority need to look to find the relevant criteria.

7. Paragraph 2.37 of Annex A to the *Circular 25/1986* is in the following terms:

“2.37 The Secretary of State expects that in fixing fares authorities will want to pay primary regard to the costs incurred by the trade, having regard to the capital costs (including interest payments) of the vehicles, the costs of maintaining and replacing them to the standards required by the licensing authority, the costs of employing drivers, and the prevailing levels of wages and costs in related road transport industries. In the Secretary of State's view the public interest is better served by ensuring the maintenance of an adequate taxi service by giving the trade a fair return than by depressing fares for social reasons, however understandable. If fares are fixed at a level higher than the market can stand, the trade is free to reduce them.”

8. *Circular 25/1986* highlights those factors the Licensing Authority requires to have regard to when undertaking its review, namely the costs incurred by the trade. It also makes clear that the Licensing Authority should disregard social reasons. The costs referred to include capital costs of vehicles, the costs of maintaining and replacing vehicles, the costs of employing drivers and the prevailing levels of wages and costs in related road transport industries. The list is not exhaustive and factors such as insurance and fuel are also relevant costs incurred by the taxi trade.
9. In arriving at its decision to propose an increase of 1%, the Board did not take account of the guidance in *Circular 25/1986*. It did not carry out any assessment of the costs incurred by the

trade prior to reaching its decision. In failing to have regard to the criteria set out in *Circular 25/1986* the Board acted unlawful.

Report to the Board

10. At its meeting on 26 February 2021 the Board had before it a report from the Licensing Authority's Head of Legal & Property Services. This report fails to address the considerations highlighted in *Circular 25/1986* that a licensing authority requires to have regard to when fixing taxi scales. It did not explain the approach the Board should take when undertaking its review in terms of section 17 of the 1982 Act.
11. The first two pages of the report set out its purpose, a summary and a recommendation. There is no reference in any of these sections to what the Board requires to have regard to when reviewing the taxi scales. This is also the case with sections 5, 6 and 7 of the report. The only section which contains any reference to the approach the Board should take is in section 4 on page 3 headed '*Comments on the trade proposals*'. This contains the Head of Service – Roads and Transportations' comments.
12. It would appear that in making the comments which she did, the Head of Services – Roads and Transportation at least had in mind some of the factors which would require to be considered when dealing with the review of taxi scales. Insofar as the Licensing Authority may seek to rely upon what has been said by the Head of Services – Roads and Transportation in seeking to justify the 1% increase, her comments fall well short of indicating that the Licensing Authority has undertaken its review in accordance with the criteria detailed in *Circular 25/1986*.
13. In section 4.3 the Head of Services – Roads and Transportation refers to the need to take account of increased running and living costs since the last fare review, which suggests she is approaching this issue in the correct way. She however then fails to indicate that such an assessment was undertaken or what impact any change in costs has upon the taxi trade.
14. The Head of Services – Roads and Transportation refers in section 4.3 to a 9.8% reduction in fuel costs between December 2019 and November 2020 (an AA report being the source of

these figures); she accepts this cost has fluctuated over time although the general trend has been down. She does not however go on to analyse what impact a reduction in the cost of fuel has on the overall running costs of the taxi trade.

15. In section 4.4, reference is made to the Consumer Price Index, with the 12 month rate in October 2020 being 0.7%. There is however no suggested link between the increase in CPI and the costs incurred by the trade, nor any attempt to identify those running costs which would be impacted by the CPI. Clearly in view of the comments in section 4.3, fuel cannot be said to have increased in accordance with the CPI. It is not apparent what other costs are said to be impacted by CPI.
16. In section 4.5, the Head of Services – Roads and Transportation comments on the difficulty of obtaining data for the insurance sector although appears to tacitly accept that any increase in insurance costs would be a relevant factor. There is no indication however of the extent of any increase, or its impact on overall cost.
17. The comments in section 4.6 appear to accept that increasing running costs to meet Euro6 and Euro5 emissions standards are an issue for the trade although again there is no attempt made to quantify the extent of this increase in overall running costs. There is also no reference in section 4 to capital costs or the general cost of maintenance beyond what is said in section 4.6. There are also no comments about the costs of employing drivers or the prevailing levels of wages and costs in related road transport industries.
18. In summary, while the Head of Service – Roads and Transportation has commented upon certain factors which would have a bearing upon a tariff review, the Licensing Authority has not sought to investigate these issues nor explain what the overall impact of these factors were on running costs to assess to what extent this would impact the fare scales.
19. It is not entirely clear on what basis the Board arrived at its decision to apply a 1% increase to the current taxi scales. It is however apparent that in doing so, the Board did not undertake its review in accordance with the guidance contained in *Circular 25/1986*. In failing to do so, the Board has acted unlawfully.

Further review

20. It is submitted that the current proposed increase of 1% requires to be set aside and a further review undertaken by the Board consistent with the guidance contained in *Circular 25/1986*. Should the Board refuse to do this, and decides instead to proceed to implement its decision to increase the taxi scales by 1%, ITL and ABC will appeal this decision to the traffic commissioner in terms of section 18 of the 1982 Act.
21. ITL and ABC's preference is to work with the Licensing Authority to introduce a robust and appropriate methodology to be applied for reviews undertaken in terms of section 17 of the 1982 Act. The current review and indeed previous reviews have not been undertaken applying an appropriate and lawful methodology. It is in the interests of all parties, including the general public, that such reviews are undertaken properly and in accordance with the guidance contained in *Circular 25/1986*. This is the approach adopted elsewhere by other licensing authorities, including Glasgow City Council.
22. The approach adopted by Glasgow City Council involves commissioning a report from Dr James Cooper of the Transport Research Partners. Dr Cooper is an independent and recognised expert in taxi tariff and fare reviews. He has developed a formula which is used to determine the extent to which existing taxi scales are impacted by any change in the normal running costs of the taxi trade from one review to the next. His approach takes account of and is consistent with the guidance detailed in *Circular 25/1986*. Dr Cooper's formula and approach has been used by Glasgow City Council for over a decade and is accepted by the trade and public alike. ITL and ABC would ask that the Board appoint Dr Cooper to look anew at the current review and make recommendations as to the approach that should be followed in fixing the taxi scales.
23. Independent of any decision to appoint Dr Cooper and in recognition of the limited timescale involved in pursuing an appeal should the Board decide to implement its decision to apply a 1% increase, ITL and ABC have undertaken their own assessment of the changes in the

costs to the taxi trade in the period since the taxi scales were last reviewed in November 2019 and now. This assessment showing the changes in the costs to the taxi trade is detailed in the Schedule which is submitted with these representations. This data would point to a significantly higher increase than the 1% proposed by the Board and would certainly justify the 20p increase on the flag fall across all taxi scale tariffs requested by ITL and ABC. ITL and ABC reserves the right to rely upon this information in any appeal to the traffic commissioner.

Schedule

- (i) The capital cost in November 2019 of an average saloon vehicle was £16,795 with the cost of a wheelchair accessible vehicle varying from £23,665 to £39,995. By April 2021 these costs had increased by 10 to 15%.
- (ii) The cost of insurance premiums for a taxi operator in April 2021 are similar to the cost of such premiums in November 2019.
- (iii) In November 2019 the cost of diesel was 131.7p per litre. The cost of diesel as at April 2021 is 126.9p, a decrease of 4.8p or 3.6%.
- (iv) The cost of vehicle parts has increased significantly in the period from November 2019 and April 2021. Increases have varied from around 4% to 44%, depending upon the part. Examples include coil springs where the cost has increased from £18.90 to £25.80, an increase of 29%; oil filters where the cost has increased from £4.73 to £6.83, an increase of 44%; water pumps where the cost has increased from £55.72 to £58.30, an increase of 4.6%; and timing belt kits where the cost has increased from £186.95 to £209.95, an increase of 12.3%.
- (v) The costs of labour for undertaking repairs and/or maintenance for taxis varied from £30 to £45 per hour in November 2019. These labour costs are largely unchanged as at April 2021.
- (vi) Taxi licensing fees have increased from £340 in November 2019 to £360 in April 2021, an increase of 5.9%.

- (vii) The cost of radio dues in November 2019 was £130 per week. In April 2021 radio dues have been reduced to £120 per week, a decrease of 7.7%.

- (viii) The cost of driver earnings also requires to be considered. It is suggested this should be measured on the basis of annual changes in the Office for National Statistics Annual Survey of Hours and Earnings (ASHE). The survey is widely used in statistical reviews and is based on official (government) data. Using the ONS measure of gross annual pay derived from table 2.7a of ASHE - full time annual pay – annual pay increased from £21,900 in February 2019 to £22,889 in February 2020, an increase of 4.5%. The 2021 figure has not as yet been published.