

# Birmingham City Council

## Report to Cabinet

26 July 2022



**Subject:** Hackney Carriage Maximum Fare Tariff Review

**Report of:** Robert James, Strategic Director of City Operations

**Relevant Cabinet Member:** Councillor Liz Clements, Transportation

**Relevant O &S Chair(s):** Councillor Akhlaq Ahmed, Resources Overview and Scrutiny Committee

**Report author:** Sajeela Naseer  
Head of Licensing, Markets, Registration Services and Private Rented Sector  
Telephone No: 07766 924955  
Email Address: sajeela.naseer@birmingham.gov.uk

Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 010376/2022		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### Executive Summary

- 1.1 The purpose of this report is to consider a request from the Hackney Carriage trade to increase the maximum chargeable fares payable by the travelling public for Hackney Carriage journeys and to approve a proposal for consultation with the public.
- 1.2 The setting of fares is a power afforded to the Council and it is the Council's responsibility to strike a balance between setting a fare that is acceptable to the customer and to the taxi driver. Cabinet has the responsibility for decision making.

- 1.3 There are currently 1034 Birmingham-licensed Hackney Carriage Drivers and 680 licensed hackney carriage vehicles. There are more drivers than vehicles as not all licensed driver choose to drive a hackney carriage. A Hackney Carriage driver's licence also permits the driver to drive private hire vehicles.
- 1.4 Three separate proposals have been put forward by the hackney carriage trade asking for an increase in fares:
- The first (Appendix 1) came from a hackney carriage licence holder and was accompanied by an approximate 230 person signed petition from hackney carriage drivers with accompanying hackney carriage licence badge numbers.
  - The second (Appendix 2) and third proposal (Appendix 3) came from the Rail, Maritime and Transport Workers (RMT) union. RMT's Proposal 3 supersedes their Proposal 2.
- 1.5 Officers have considered the three proposals and suggest that an amended version of Proposal 3 is pursued for consultation. This Proposal 4 to be called the "2022 Proposed Maximum Fare Tariff" and is shown in Appendix 4.
- 1.6 It must be emphasised this is the first report in a series of a strategic measures covering the role of the hackney carriage and taxi trade in the City's Transport Strategy. This tariff has been brought forward in light of the declining numbers of hackney carriages in the City and significant increase in the price of fuel.

## **2. Recommendations**

- 2.1 That Cabinet approves Proposal 4 "2022 Proposed Maximum Fare Tariff" shown in Appendix 4 as the preferred tariff for consultation.
- 2.2 That Cabinet approves the commencement of the statutory public consultation in accordance with Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 for a period of not less than fourteen days to allow for objections to be made.
- 2.3 That Cabinet approves implementation on 30 September 2022 should no objections be made during the statutory consultation period referred to in section 2.2. If objections are received, a further report will be submitted to allow Cabinet to consider the objections raised and to further consider the tariffs proposed.

### **3 Background**

- 3.1 Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 provides that a district council may fix the maximum rate of fares within the District and all other charges in connection with the hire of a Hackney Carriage vehicle; this is done by means of a table which is to be referred to as “the table of fares”. Private Hire vehicles are able to set their own fares and are therefore not the subject of this report.
- 3.2 The local authority controls the maximum fares charged by hackney carriages. This is enforced through the use of a meter for all journeys, which measures a combination of time and distance travelled.
- 3.3 The Department of Transport suggests that in reviewing fares authorities should pay particular regard to the needs of the travelling public, with reference both to what it is reasonable to expect people to pay but also to the need to give Hackney Carriage drivers sufficient incentive to provide a service when it is needed. There may well be a case for higher fares at times of higher demand.
- 3.4 Any changes to the table of fares must be decided by Cabinet and published in accordance with Section 65 for a period of not less than fourteen days to allow for objections to be made. In the event that any objections are received within the period allowed, and not withdrawn, then the Council must set a further date not later than two months after the first specified date for the table of fares to come into effect with or without modifications as described by them.
- 3.5 The powers to set a maximum fare were considered by the Office of Fair Trading in its report in November 2003. The Government in its response to the report made it clear that it recognised that there was a strong case for negotiating the maximum level of fares in order to protect the interests of the consumers and recommended that local authorities should continue to exercise these powers.
- 3.6 The Hackney Carriage maximum tariffs have not been changed in Birmingham since June 2012 when the current tariffs were approved.
- 3.7 Officers have taken the following guidance into consideration when considering the maximum fare tariffs proposed:
- Law Commission Report  
[https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/03/lc347\\_taxi-and-private-hire-services.pdf](https://s3-eu-west-2.amazonaws.com/lawcom-prod-storage-11jsxou24uy7q/uploads/2015/03/lc347_taxi-and-private-hire-services.pdf)

- Office of Fair Trading Report  
[https://webarchive.nationalarchives.gov.uk/20140402181227/http://www.oft.gov.uk/shared\\_oftr/reports/comp\\_policy/oft676.pdf](https://webarchive.nationalarchives.gov.uk/20140402181227/http://www.oft.gov.uk/shared_oftr/reports/comp_policy/oft676.pdf)
- Department for Transport  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/212554/taxi-private-hire-licensing-guide.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/212554/taxi-private-hire-licensing-guide.pdf)
- Competition and Markets Authority report dated April 2017  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/624539/taxi\\_phv\\_la\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/624539/taxi_phv_la_guidance.pdf)

#### **4.0 Maximum Fare tariff**

- 4.1 Three requests have been made that Birmingham City Council considers an increase in maximum chargeable Hackney Carriage fares. The last rise in maximum fares took effect in June 2012 and the current fare table is shown in appendix 5.
- 4.2 Proposal 1 is in Appendix 1 and is based on replacing the current tariff 1 with the tariff 2.
- 4.3 Proposal 2 is shown in Appendix 2 and uses the current fare tariff and economic data as a basis for proposed fare increases. Proposal 2 has now been withdrawn by the submitters (RMT Union).
- 4.4 Proposal 3 is shown in Appendix 3 and uses the current fare tariff and economic data as a basis for proposed fare increases. Proposal 3 is the proposal submitted by the RMT Union.

#### **5. Analysis of the three proposals**

- 5.1 Proposal 1 is a very basic proposal that will increase fares significantly for all customers during normal daytime hours. There is no explanation of the methodology used behind the proposal other than to increase the maximum fare tariff to meet the increase costs of fuel.
- 5.2 Proposal 2 is a more nuanced approach to putting forward potential increases. It builds on the current tariff system to proposed increases to both the flag charges for tariff 1 and 2 (pick up charge), and the cost per first mile for tariff 1, 2 and 3 and increases in cost per mile for mileage thereafter and waiting and time charges for tariff 1. It compares the proposal put forward with both Consumer Price Index and Retail Price Index for the last 10 years.

It also proposed new charges for carriage of a pet (not in a pet carrier) and carriage of bulky items (greater than 0.5 cubic metres). Furthermore, the proposal seeks to change the time of the commencement of tariff 2 from 23.00 hours to 22.00 hours.

There is a proposal to change the operational start time of Tariff Three from 23:00 to 22:00 hrs. On Christmas Eve and on New Year's Eve there is a proposed start time of Tariff Three to change from 19.00 to 18.00hrs. The current start time of Tariff Three on Christmas Eve and New Year's Eve is 19.00hrs.

This proposal has been withdrawn by the RMT on the basis that further increases in the price of diesel has required the increases shown in Proposal 3.

- 5.3 Proposal 3 is very similar to proposal 2 but proposes greater increases in both the flag charges and cost per first mile for all four tariffs and cost per mile for mileage thereafter for tariff 1 and 4 and waiting and time charges for tariff 1.

## **6. Options Considered and Recommended Proposal**

- 6.1 Cease regulating fares - Hackney Carriages are unique in that they can be hailed from the street or picked up from a rank. Where a journey is pre booked the hirer has the opportunity to compare and negotiate a price. This opportunity does not exist in the same way when picking up a taxi from a rank and increases the risk of confusion and dispute. Vulnerable customers are more exposed to exploitation. Currently only a handful of Local Authorities in England choose this option. The setting of a maximum fare by the local authority adds protection for the consumer.
- 6.2 No change – given that there has not been an increase to tariffs in the last 10 years and drivers are currently being negatively impacted by inflationary pressures this option is not viable.
- 6.3 Introduction of a new methodology – Fare scales should be designed with a view to practicality. A simple formula for deciding on fare revisions would increase understanding and improve the transparency of the process. Some local authorities have devised a specific methodology with which to review fare tariffs. While this is an option officers would like to consider in the future, this will take a significant amount of time and hence we do not believe it is appropriate to pursue this at the moment.
- 6.4 Put proposal 1, 2 and 3 to the trade – while this is a valid option it is likely to result in no consensus and hence no progression to an actual agreed maximum fare tariff.

- 6.5 Put Proposal 1, 2 or 3 to public consultation - we have considered the proposals and consider that Proposals 2 and 3 are clearly well thought out proposals and use the current fare tariffs as a starting point for building increases. It is considered that Proposal 3 is more likely to be supported by drivers and officers have received an indication from the submitter of Proposal 1 that he and his “colleagues” would support Proposal 3 if:

Tariff 1: Standard Day Rate applicable Monday to Friday was applicable from 07:00 hours to 19:00 hours AND on Saturday: from 07:00 hours to 19:00 hours  
Tariff 3: weekend night rate applicable Friday and Saturday- from 19:00 hours to 07:00 hours AND Extra Charges: a 20p transaction fee for all card users.

- 6.6 Having considered all 3 proposals and the feedback from the submitter of Proposal 1 we have adapted Proposal 3 to form a new **Proposal 4 “2022 Proposed Maximum Fare Tariff”** which is shown in Appendix 4. Proposal 4 is the same as Proposal 3 but omitting the following items:

- Omit proposed charge for carriage of a pet (not in a pet carrier). REASON – such a charge would be more likely to impact on the users of assistance dogs where there may be disputes with the driver about whether a dog is for assistance.
- Omit proposed charge for carriage of bulky items greater than 0.5 cubic metres). REASON – items of this size should not be carried for health and safety reasons. Furthermore, disputes may arise with the driver about whether the charge should apply dependent on the perceived size of the article.
- Omit proposed tariff 3 time change from 19.00 to 18.00 hours on Christmas Eve and on New Year’s Eve. REASON – it is considered it would not be appropriate to commence the weekend night rate (tariff 3) this early in the evening.

Officers recommend that changes proposed by the proposer of Proposal 1 in terms of changing the start time of tariffs 2 and 3 (night time tariffs) are appropriate as it is not agreed night time starts at 19.00 hours. A charge being made for a card transaction cannot be supported as this is illegal under the Consumer Rights (Payment Surcharges) Regulations 2012 (as amended).

- 6.7 It is recommended that **Proposal 4 “2022 Proposed Maximum Fare Tariff”** supports a balanced approach when looking at increasing fares and the impact on customers, given that the fare tariff has not increased for 10 years.

- 6.8 The Private Hire and Taxi Monthly (PHTM) publishes a table of hackney carriage fares at tariff one over 2 miles. It measures this fare across 355 local authorities in England. Birmingham is number 166 on the list with a fare of £6.20.

Should Proposal 4 be implemented the charge would increase to £7.60 and Birmingham's would be equivalent to the fare charges by numbers 18 to 23 in this table. The fare table can be found at [Hackney Taxi Fare Tables \(phtm.co.uk\)](http://phtm.co.uk)

## **7.0 Consultation**

- 7.1 If the recommendations are approved then Proposal 4 "2022 Proposed Maximum Fare Tariff" will be published for public comment in accordance with Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 for a period of not less than fourteen days to allow for objections to be made.
- 7.2 Birmingham City Council Route to Net Zero team have been consulted and have confirmed that a Environmental and Sustainability Assessment is not required for this fare review.

## **8. Risk Management**

- 8.1 The Hackney Carriage trade would like a fare increase as soon as possible. While their motivations are understood given current inflationary pressures, it is essential that the City Council ensures legislative requirements to consult appropriately and consider the responses to that consultation are met otherwise the approval of new tariffs may be susceptible to legal challenge.
- 8.2 After approval of the new tariffs and the expiry of the minimum 14-day public consultation period (with no objections) all 680 hackney carriages will require their meters to be reset. This means that it is likely that this whole process will take between 6-8 weeks from approval of this Cabinet report, allowing for potential call-in, if there are no objections to the proposal.

## **9.0 Compliance Issues**

- 9.1 How are the recommended decisions consistent with the Council's policies, plans and strategies?

### **9.1.1 Council Plan**

- 9.1.2 The Council's vision is to be a City of growth where every child, citizen and place matters – It wants to make a positive difference, every day, to people's lives. This aim underpins everything we do, whether that's setting our priorities, making decisions or delivering services. There are eight outcomes to achieve that vision.

Outcome 4 - Birmingham is a great, clean and green city:

The provision of a hackney carriage transport offers reduced personal car use. Use of hackney carriages increases the safety of lone travelers especially at night.

## **9.2 Legal Implications**

- 9.2.1 Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 provides that in respect of the charges for Hackney Carriages, the Council “may fix the rates or fares within the district as well for time as distance, and all other charges in connection with the hire of a vehicle...by means of a table”
- 9.2.2 It is a legal requirement of the 1976 Act that when the Council makes or varies a table of fares that it publishes in at least one local newspaper circulating in the district a notice setting out the table of fares, or the variations. The notice must give a specified period, of not less than 14 days, within which objections can be made.
- 9.2.3. If no objections to the table of fares or the variation are received the table of fares or the variations shall come into operations on the date of the expiration of the period specified in the notice.
- 9.2.4. If objections are received, and not withdrawn, the Council shall set a further date, no later than two months after the first specified date, on which the table of fares shall come into force with or without modifications as decided by the Council after consideration of the objections.
- 9.2.5 The decision in the case of Mark Rostron v. Guildford Borough Council [2017] EWHC 3141 (Admin) (in which a judicial review was brought in respect of the local authority’s proposal to reduce fares previously chargeable) highlights the need for fares proposed to be capable of economic justification and explanation if challenged.

## **9.3 Financial Implications**

- 9.3.1 There are no financial implications for the Council. The consultation will be undertaken by existing officer resource and no additional budget is required for this. The cost of administering the hackney carriage licence scheme is funded through licence fee income on a cost recovery basis.
- 9.3.2 The resource cost of administering this fare review and implementing any meter changes will be considered as a cost of administering the hackney carriage licence scheme and as such will be included in any subsequent licence fee review.



#### **9.4 Procurement Implications**

9.4.1 No procurement issues have been identified

#### **9.5 Human Resources Implications**

9.5.1 All human resource issues will be within existing officer resource.

#### **9.6 Public Sector Equality Duty**

9.6.1 An equality assessment has been undertaken and is found in Appendix 6

9.6.2 All groups would see an equal rise in the fares that they pay to use Hackney Carriages should an increase be decided. There is potential for an increase in fares to impact disproportionately on people with disabilities, in particular wheelchair users. This potential negative impact could be driven by Hackney Carriage fares being too low and causing drivers to cease providing the service or fares being too high and this limiting the ability of users of the service. It is therefore necessary to balance any fare increases carefully. On balance it is considered the proposed tariff increases is likely to ensure the service for disabled passengers is maintained rather than withdrawn due to lower tariff availability causing hackney carriages to be taken off the road. This is likely to be more positive in equalities terms than the increase itself.

### **Appendices**

Appendix 1 – Proposal 1

Appendix 2 – Proposal 2

Appendix 3 – Proposal 3

Appendix 4 – Proposal 4 “2022 Proposed Maximum Fare Tariff”.

Appendix 5 – Current Birmingham Hackney Carriage Fare Table

Appendix 6 – Equality Assessment