

ABERDEEN CITY COUNCIL

COMMITTEE	Licensing Committee
DATE	19 December 2017
REPORT TITLE	Ban on Taxi Surcharge for Credit and Debit Cards in Light of HM Treasury Announcement
REPORT NUMBER	CG/17/143
DIRECTOR/HOS	Fraser Bell
REPORT AUTHOR	Lynn May

1. PURPOSE OF REPORT:-

- 1.1 To request that the Licensing Committee note the announcement from HM Treasury that all surcharges for making payments by credit or debit card will come to an end on 13 January 2018 and instruct the Head of Legal and Democratic Services to take the necessary steps required to facilitate compliance with the second EU Payment Services Directive

2. RECOMMENDATION(S)

- 2.1 That the Committee:-

1. Notes that the Government, HM Treasury, made an announcement on 19 July 2017 unveiling new rules, resulting from the implementation of the second EU Payment Services Directive, which will mean that surcharges for making payments by credit or debit card will be prohibited from 13 January 2018, and that there is no transition period for the provision.
2. Instructs the Head of Legal and Democratic Services to write to all holders of taxi and private hire car licences to advise them:-
 - (a) That they will be prohibited from charging customers the credit/debit card surcharge, currently on the Taxi Tariff Card, from 13 January 2018;
 - (b) That licence holders will require to consult their card machine providers or amend their card machines as soon as possible in order to remove the credit/debit card surcharge from 13 January 2018;

- (c) That a new Taxi Tariff Card with the credit/debit card surcharge removed will be made available on the Council's website from 13 January 2018 and thereafter will be issued to licence holders after the completion of the next Taxi Fare Review in the Summer of 2018. Licence holders will be advised that they should black out/delete the surcharge from their current Tariff Cards from 13 January 2018.
3. Instruct the Head of Legal and Democratic Services to publicise in the media, for the benefit of users, that taxis and private hire cars with meters will not be able to charge customers the credit/debit card surcharge from 13 January 2018 and any complaints about overcharging should be made to the City Council's Licensing Enforcement Officers or Trading Standards Officers.

3. BACKGROUND

- 3.1 An announcement was made by HM Treasury on 19th July (Appendix 1) stating that all surcharges for credit and debit card payments will come to an end as a result of the need to comply with the Second Payment Services Directive. HM Treasury confirmed to Aberdeen City Council by email on 21st July 2017 that the ban comes into effect on 13th January 2018 and that there is no transition period for the provision. A copy of the email is attached to this report (Appendix 2).
- 3.2 Prior to this a complaint had been made to the Licensing Team by a passenger who had been charged a surcharge on a card payment in a taxi. Upon looking into this it came to light that the current regulation which applies to all businesses prohibits traders in the United Kingdom from charging consumers more than the direct cost borne by the trader for the use of a given means of payment. The reason for these provisions was to ban excessive payment surcharges being charged to consumers, while allowing traders to recover the fees directly charged to businesses for taking certain types of payments from consumers. This aimed to increase price transparency and make payment surcharges cost reflective.
- 3.3 As a result of the above complaint and the subsequent investigation a draft report was prepared for the meeting of the Committee on 12 September proposing to amend the current taxi tariff and make an amendment to the current licence conditions for taxis and private hire cars in order to comply with the regulations. However in light of the announcement from HM Treasury on 19 July 2017 (Appendix 1), that as of 13th January 2018 all surcharges in relation to credit and debit charges would be banned, the report was removed from the draft agenda for the September Licensing Committee and a new report prepared for this meeting.

- 3.4 The Licensing Committee as part of its last Taxi Fare Review, as in previous years, included a 10% surcharge on fares when the customer pays by debit or credit card. It is now clear that this is currently against regulations as businesses can only pass on charges that genuinely reflect their costs. A copy of the current Taxi Tariff Card is attached to this report (Appendix 3).
- 3.5 The Second Payment Services Directive was approved by the European Parliament and Council in late 2015 and came into force on 13 January 2016. As a result of a consultation on the Directive, in July 2017, the Government decided to extend the surcharging ban to all retail payment instruments e.g. all debit and credit cards. The Government agreed that this ban will provide a clearer picture for consumers and a level playing field between payment instruments. Consumers should be able to know the full price of the product or service they are purchasing upfront and confident that there will be no additional charges when they come to pay whatever payment instrument they chose to use. A blanket ban on surcharging for all payment instruments will also be much easier to enforce than the current position in which retailers/ service providers are able to pass on costs, but often the consumer has no easy way of assessing what these costs are. The UK Government implemented the Second Payment Services Directive and the surcharging ban into law by introducing the Payment Services Regulations 2017. We require to comply with the requirements of the regulations from 13 January 2018

4. FINANCIAL IMPLICATIONS

- There are no direct financial implications as a result of the recommendations in this report.

5. LEGAL IMPLICATIONS

- 5.1 The United Kingdom Government have decided, in order to implement the second EU Payment Services Directive, to ban surcharges on all retail payment instruments e.g. payments by credit and debit card. This ban will take legal effect in the United Kingdom, by way of the Payment Services Regulations 2017, on 13 January 2018 and therefore Aberdeen City Council as licensing authority for Taxis and Private hire cars requires to ensure that such surcharges are not added to regulated taxi fares from the relevant date.

6. MANAGEMENT OF RISK

- Financial

- 6.1 There are no direct financial implications arising from the recommendations of this report.

- Employee
- 6.2 There is no risk to employees arising from the recommendations of this report
- Customer/Citizen
- 6.3 Implementation of the recommendations would move towards protecting the citizens of Aberdeen and visitors to the City hiring taxis and private hire cars from the risk of being charged excessive fees in contravention of the second EU Payment Services Directive by ensuring that we take steps to comply with the HM Treasury announcement and the Payment Services Regulations 2017.
- Environmental
- 6.4 There is no risk to the environment arising from the recommendations of this report.
- Technological
- 6.5 There is no risk to technology arising from the recommendations of this report.
- Legal
- 6.6 Implications as per paragraph 5.1.
- Reputational
- 6.7 There is no direct risk of reputational damage arising from the recommendations in the report.

7. IMPACT SECTION

Economy

- 7.1 There may be some impact on the local economy arising from the recommendations, for example businesses, such as taxi and private hire operators, will no longer be able to pass their bank charges for card payments onto their customers. This could then potentially have an impact on the prices charged for goods and services.

People

7.2 There is no impact on the people arising from the recommendations.

Place

7.4 There will be no impact on the place arising from the recommendations.

Technology

7.5 There will be no impact on technology arising from the recommendations

8. BACKGROUND PAPERS

8.1 None

9. APPENDICES (if applicable)

9.1 Appendix 1 – Announcement from HM Treasury
Appendix 2 – Email from HM Treasury
Appendix 3 – Current Taxi Tariff Card

10. REPORT AUTHOR DETAILS

Lynn May
Solicitor, Licensing
LynMay@aberdeencity.gov.uk
01224 523173

HEAD OF SERVICE DETAILS

Fraser Bell
Head of Legal and Democratic Services
frbell@aberdeencity.gov.uk
012245220