

3 February 2021		ITEM: 5
Licensing Committee		
Setting of Licensing Fees		
Wards and communities affected: All	Key Decision: Key	
Report of: Paul Adams – Licensing Manager		
Accountable Head of Service: Leigh Nicholson – Assistant Director Planning, Transport and Public Protection		
Accountable Director: Andrew Millard - Director of Place		
This report is: Public		

Executive Summary

This report sets out the process and methodology for the setting of Licence Fees associated with licence applications under the remit of the Licensing Committee, and proposes the licencing fees for consultation where necessary for the 2021-2022 financial year.

1. Recommendation

1.1 Agree the fees and charges as set out in Appendix A for the 2021- 2022 financial year.

2. Introduction and Background

2.1 Most licence applications attract a fee, different licensing regimes have different ways in which the fees are set, which generally is by one of three ways:

- A statutory set fee.
- A locally set reasonable fee that has by statute, a capped maximum amount.
- A locally set reasonable fee with no maximum cap.

2.2 With the exception of the statutory set fees, any fee charged must be based on cost recovery, no profit can be made on the licence fee income.

2.3 Fees that are set by statute, cannot be varied and must be charges as they are set within the legislation, this relates to all licences under the Licensing Act 2003 (Alcohol and Entertainment).

- 2.4 Fees that can be set locally with a capped maximum must be set on a cost recovery basis up to the cap. If the cost recovery is less than the capped amount then less than the cap should be charged, if it is higher than the cap then a loss will need to be made. This relates to fees under the Gambling Act 2005.
- 2.5 Fees that can be set locally without a cap, must be set on a cost recovery basis only, they cannot be used to generate an income to perform other functions of the Council. This relates to Taxis, Sex Establishments, Scrap Metal Dealers, Street Trading, MST and all Animal Welfare Licences.
- 2.6 Guidance does exist in relation to fee setting in the form of:
- Home Office Guidance on setting Scrap Metal Dealers Act 2013 Fees.
 - Draft LGA Guidance on Locally Set Fees, issued September 2013.
 - DEFRA Guidance, Animal Welfare Licence Fees - A Practical Guide to Fee Setting
 - Welsh Technical Panel Templates
 - Case law.
- 2.7 Cost recovery is considered as the covering the full cost of administering and ensuring compliance with the licensing regime. Each licensing regime has some slight differences but generally the costs that could be included calculations and apportioned appropriately are:
- Administration - processing of the licence, officer time, printing, postage and licensing software, etc.
 - Visits - Officer time for initial visits, renewal inspections, etc.
 - Third Party Costs – Veterinary visits, vehicle inspections etc.
 - Consultation and liaison with third parties – engaging with Responsible Authorities and other stake holders.
 - Management Costs – apportioned cost of the management involvement in any process.
 - Democracy costs – Committee costs for determining applications
 - On Costs – Payroll, Accommodation, finance, legal, travel
 - Training – For officers and Members
 - Policies – Development, consultation, publishing and review.
 - Web material – compliance with EU Directive, on line applications.
 - Compliance work – ensuring licence holders are compliant with the licence.
 - Fees – Setting and reviewing of fees
 - Appeals - legal costs of appeals
 - Maintaining registers – local and national
- 2.8 There are costs that are unrecoverable; this should include the cost of enforcement action in relation to un-licensed persons/premises/vehicles. This type of action should be funded out of the Council's General Fund.

- 2.9 In order to ensure that fees remain reasonable and proportionate it is necessary to carry out a regular review of the fees.
- 2.10 Generally fees cannot make a profit, case law has established that any surplus must be carried forward, and any deficit can also be carried forward and recouped.
- 2.11 Benchmarking of fees could be used only as a comparison, and should not be used as a fee matching exercise. Each authority will have different costs, structures and processes which will significantly could create differences in fees.

3. Issues, Options and Analysis of Options

- 3.1 Thurrock Council's locally set licence fees were last set in 2015. The fees were reviewed last year and a slight increase for taxis and animal establishments was proposed and the consultation began just before COVID-19 took hold.
- 3.2 This consultation was stopped as the licence holders that would be impacted by the fee rise were significantly impacted by COVID-19.
- 3.3 Case law has placed and added emphasis on the need for councils to set fees in a legally robust and transparent manner. Recently steps have been taken to separate out further the accounting of each licensing regime, providing a more robust and transparent process in response to recent guidance and case law.
- 3.4 It is proposed to keep fees at their current level. COVID-19 has significantly impacted those businesses that were expected to see a small increase, with licence operators not working still and with those that are seeing a significant reduction in business.
- 3.5 The only proposed change to the fees is the charge for the DBS check has been separated from the application fee for driver licences to accommodate the need to use the DBS update service in line with recent taxi guidance. There is no actual change to the total fee.
- 3.5 A full review of all fees will be undertaken next year, and any surplus must be carried forward, and any deficit can also be carried forward and recouped if either case arises with the impact of COVID-19 on the trading accounts for this year.
- 3.6 The proposed fees for are attached in **Appendix A**. It is intended that this fee change will come into effect from 1st April 2020.

4. Reasons for Recommendation

4.1 It is important that all Licence fees are subject to regular review to ensure that they remain reasonable and proportionate. Where there is to be a significant change to the licensing fee, sufficient consultation must be undertaken to ensure compliance with legislation and to seek a balanced view of the proposed changes.

5. Consultation (including Overview and Scrutiny, if applicable)

5.1 Full consultation will be undertaken on any significant proposed changes to fees, or where consultation is required by statute.

5.2 Under the Local Government (Miscellaneous Provisions) Act 1976, with regards to hackney carriage proprietors licences, private hire vehicle licences and private hire operator licences, there is a requirement where the fee charged is greater than £25 to consult on the proposed fee as prescribed by the legislation.

5.3 The procedure requires that a notice must be published in a local newspaper, and at the offices, which must give 28 days from the date of publishing for objections to be lodged and advertise the date the fees will come into effect.

5.4 If objection is received and has not been withdrawn then the council must consider the objections. If this is the case then this committee will consider the objections.

6. Impact on corporate policies, priorities, performance and community impact

6.1 This review will ensure the licensing service continues to be cost recovery where possible.

7. Implications

7.1 Financial

Implications verified by: **Laura Last**
Senior Management Accountant

As part of the budget process each year, the Council needs to review its fees and charges. The future development of the Medium Term Financial Strategy takes into account changes in fees and charges in broad terms over the period of the strategy.

This report sets out information for the Licensing Committee, the process of setting fees in accordance with Legislation, Guidance and good practice.

It is important that the fee levels are set where possible at cost recovery to ensure that the service is financial viable for the current financial year.

7.2 Legal

Implications verified by: **Simon Scrowther**
Principal Lawyer

A Council is entitled to charge a reasonable fee for the grant of a licence, in accordance with relevant legislation, with a view to recovering the costs of issue and administration of those licences. This report set out what is considered reasonable and the process to be followed.

7.3 Diversity and Equality

Implications verified by: **Rebecca Lee**
Team Manager, Community Development and Equalities

To ensure any equality impact is managed, any change in fees must be communicated to all licence holders at the earliest opportunity, consultation on any proposed changes will be undertaken to ensure that customers have an opportunity to contribute to any decision to change and the council considers these contributions before taking a final decision.

7.4 Other implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

None

8. Background papers used in preparing the report (including their location on the Council's website or identification whether any are exempt or protected by copyright):

None

9. Appendices to the report

- Appendix A – Proposed Fees 2021/2022

Report Author:

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