

14 December 2022		ITEM: 6
Licensing Committee		
Setting of Licensing Fees 2023/2024		
Wards and communities affected: All	Key Decision: Key	
Report of: Paul Adams, Licensing Manager		
Accountable Assistant Director: Leigh Nicholson, Assistant Director Planning, Transport and Public Protection		
Accountable Director: Mark Bradbury, Interim 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. It also considers the responses from the public consultation in relation to the proposed fees for the 2023-2024 financial year.

1. Recommendation(s)

- 1.1 To consider the consultation responses received and agree the proposed fees and charges as set out in Appendix 3 for the 2023- 2024 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 fee that has by statute, a capped maximum amount.
 - A locally set 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 charged 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 the cost it is higher than the cap, then a loss will need to be made. This relates to fees under the Gambling Act 2005. Fees are currently set at the maximum cap.
- 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 includes 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, online 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 could create significant differences in fees.

3. Issues, Options and Analysis of Options

- 3.1 Thurrock Council's locally set licence fees were last increased in 2015. The fees were reviewed and set last year, but due to the impact of the COVID pandemic at that time, fees were held at their current level despite the need for an increase since 2019.
- 3.2 A set of trading accounts have been prepared which have included the cost of providing each area of licensing based on the percentage of time officers spend on each activity, against the income against each area, which can be found in **Appendix 1**.
- 3.3 Following agreement at the last Licensing Committee, a public consultation was undertaken with all licence holders, inviting them to view the proposed fees and make comments on the Council's public consultation portal. There have been 12 responses relating to the Taxi fees, 1 response relating to the street trading fees and 2 responses in relation to the animal fees. All the responses can be found in the table in **Appendix 2**, where officers have responded to the comments received where necessary.
- 3.4 Based on the trading accounts and the public consultation, the proposed fees and charges for the 2023 – 2024 period are attached as **Appendix 3**. It is intended that this fee change will come into effect from 1st April 2023. No changes have been made to the proposed fees following the consultation.

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. As there will be a significant change to the licensing fee, sufficient consultation has been undertaken to ensure compliance with legislation. The responses to the consultation are presented within this report for consideration before agreeing the final fees and charges.

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

- 5.1 Consultation has been undertaken on any significant proposed changes to fees, or where consultation is required by statute.
- 5.2 Consultation did include communication of the proposed changes to all relevant licence holders for comments to be submitted on the council's consultation portal.
- 5.3 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.
- 5.4 A notice has been 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.
- 5.5 As objections have been received and have not been withdrawn this committee must 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 annual budget setting process, the Council is required to review its fees and charges. 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, where possible, the Licensing fees and charges are set to cost-recover.

The effect of any changes to fees and charges on individual income targets will be determined as part of the 2023-24 budget setting process in which Corporate Finance and the service areas will review anticipated levels of demand, fee increases, previous performance and potential associated costs.

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: **Roxanne Scanlon**
Community and Engagement Project
Monitoring Officer

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 Inequalities, Sustainability, and Impact on Looked After Children

- 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 1 – Licensing Trading Accounts.
- Appendix 2 – Consultation Responses.
- Appendix 3 - Proposed Fees 2023/2024.

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