

<b>28 January 2016</b>		<b>ITEM: 6</b>
<b>Licensing Committee</b>		
<b>Setting of licensing Fees for 2016/2017</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Key	
<b>Report of:</b> Paul Adams, Principal Licensing Officer		
<b>Accountable Head of Service:</b> Lucy Magill, Head of Public Protection		
<b>Accountable Director:</b> David Bull, Director of Planning and Transportation		
<b>This report is:</b> Public		

## **Executive Summary**

This report is to consider the response to the public consultation from local stake holders of licence fees associated with licence applications under the remit of the Licensing Committee.

### **1. Recommendation(s)**

**1.1 To recommend to Full Council the adoption of the licence fees originally consulted upon as attached in Appendix 1,**

**or**

**1.2 To recommend to Full Council the adoption of the licence fees proposed following the consideration of the consultation response by officers as attached in Appendix 7,**

**or**

**1.3 To recommend to Full Council the adoption of a further revised licence fee schedule after further consideration of the consultation response received.**

### **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 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 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, Massage and Special Treatments, Street Trading 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.
  - LGA Guidance on Locally Set Fees
  - Welsh Technical Panel Templates
  - Case law.
- 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.
- 2.12 Thurrock Council's locally set licence fees were last set in 2011.

### **3. Issues, Options and Analysis of Options**

- 1.1. A schedule of proposed fees for the 2016/2017 period are attached as Appendix 1.
- 1.2. A schedule of income and expenditure for licences administered by the Licensing Team is attached as Appendix 2.

- 1.3. A schedule of income and expenditure for licences administered by the Food Team is attached as Appendix 3.
- 1.4. A schedule of income and expenditure for licences administered by the Health and Safety Team is attached as Appendix 4.
- 1.5. Consultation has been undertaken in accordance with the legal requirements under the relevant legislation as detailed in section 5 of this report. In addition to the legal requirement all licence holders have been written to, providing details of the proposed fees and seeking written response for consideration by this committee.
- 1.6. Three responses have been received in relation to the Hackney Carriage and Private Hire licensing fees, which are attached as Appendix 5.
- 1.7. Six responses have been received in relation to the Animal Welfare licensing fees, which are attached as Appendix 6.
- 1.8. Following consideration of the responses from the consultation by Officers, and discussion with trade representatives a revised proposed fee list is attached as Appendix 7, which has incorporated any in year deficit and excess.
- 1.9. There were no other responses received for any other proposed changes to licence fees.
- 1.10. It is proposed that all changes to the licence fee will come into effect on the 1<sup>st</sup> April 2016.

### **Animal Welfare Licences**

- 1.11. Animal welfare licences for the purpose of this report applies to:
  - Boarding Establishment Premises (Animal Boarding Establishments Act 1963)
  - Dangerous Wild Animals (Dangerous Wild Animals Act 1976)
  - Dog Breeding Establishments (Breeding of Dogs Act 1973)
  - Pet Shops (Pet Animal Act 1951)
  - Riding Establishments (Riding Establishments Act 1964)
  - Zoos (Zoo Licensing Act 1981)
- 1.12. Over the last few years there has been an increase in the amount of time that is spent on processing and approving these types of premises, an additional mid-term inspection now takes place, during a licensed premises busy period, which is reflected in the rise in the cost of the licence.
- 1.13. In addition to the fee the applicant will also continue to be invoiced for the fee charged to Thurrock Council for the Vet inspection of the premises. The Vet fee will vary from premises to premises.

- 1.14. Members of the Licensing Team have undergone training to reduce the need for a vet to inspect premises unless required by legislation or there are significant risks, to assist smaller business.

### **Hackney Carriage and Private Hire**

#### **Private Hire Operators Licences**

- 1.15. All Private Hire Operators Licences are currently issued for 1 year, with annual renewal, however there was a change to the legislation that came into effect from October 2015 that requires Local Authorities to issue 5 year licences, unless there is a good reason not to do so.
- 1.16. The proposal is to still offer a 1 year licence when requested by the applicant, or where circumstances may require so.
- 1.17. The proposal reduces the cost of each category of licence issued.

#### **Vehicle/Proprietors Licences**

- 1.18. Both Hackney Carriage and Private Hire Vehicle licensing shows an excess income made in previous years, which has been carried forward. To ensure cost recovery this excess income is being used to reduce the fee in the coming year.
- 1.19. It is still proposed to offer a discount of £50 to applicants of wheelchair accessible vehicles as an incentive to increase the number of wheelchair accessible vehicles available in Thurrock.
- 1.20. Recent legal opinion suggests that a fee for the transfer of ownership of a vehicle licence should not be charged separately, it is proposed that this fee be removed and no charge is made for transfers. In the last year we received 5 applications for transfer.
- 1.21. Cost of a vehicle compliance check is £45 (£60 for wheelchair accessible vehicles), it is proposed that the initial compliance check cost is met within the licence fee, and that a fee is set for the additional midterm compliance test and retests, this will be charged in addition to the licence fee where necessary.

#### **Hackney Carriage and Private Hire Drivers Licences**

- 1.22. All Hackney Carriage or Private Hire Drivers Licences are currently granted for 1 year, however there was a change to the legislation that came into effect from October 2015 that requires Local Authorities to issue 3 year licences, unless there is a good reason not to do so.
- 1.23. Currently the cost of the DBS check is included in the fee, a DBS check is carried out every three years. A DVLA Group 2 Medical is required every three years unless age or medical conditions require otherwise, the cost of the medical is met by the applicant and is not included in this fee.

- 1.24. It is proposed to issue a 3 year licence as standard, unless the applicant requests a 1 year licence. Where there is less than three years until the applicants DBS and or medical requires renewing, licences will only be issued for the time period outstanding, and the appropriate 1 or 2 year fee will be applied.
- 1.25. A DVLA check will be carried out every year, regardless of the length of licence; this is included in the fee.
- 1.26. The application fee for new applicants is to include up to 4 attempts to pass the Knowledge Test, further attempts will be subject to an additional fee as provided in Appendix 1.
- 1.27. A deficit was incurred for both types of drivers' licences, which has been carried forward, resulting in an increase in the licence fee for this year.

### **Sex Establishments**

- 1.28. Sex establishments for this purpose are to include Sex Shops, Sex Cinema's and Sexual Entertainment Venues.
- 1.29. A deficit exists for this licence type, combined with the reduction of one licence, leaving just two licensed premises in Thurrock has resulted in an increase in the fee.

### **Licensing Act 2003**

- 1.30. These fees are currently set by legislation, although there is a proposal that these are to be set locally, a change to the legislation is not expected this year.

### **Gambling Act 2005**

- 1.31. A small deficit exists for this licence type; however there is no proposed change to this fee level as the deficit is sufficiently negligible to not warrant a change to the fee.

### **Scrap Metal Dealers Act 2013**

- 1.32. This Licence is granted for three years, as this licence has only been in effect for 2 years, it is too early to carry out a full review of the fee. The numbers of licences expected is consistent with the predictions included in the fee setting process. This fee will be reviewed next year.
- 1.33. The setting of this fee is still currently an executive function so this is for information only.

### **Massage and Special Treatments**

- 1.34. This function is currently operating on a cost recovery basis; there are no proposals to change the fee.

### **Street Trading**

- 1.35. All street trading licences are granted for a period of 1 year and fees are set locally.
- 1.36. Due to legal challenges nationally regarding street trading, together with the previous surplus made it is proposed to reduce the cost of licence fees to ensure cost recovery.
- 1.37. Traders are currently permitted to pay quarterly for licenses and it is proposed that this facility for all consent categories is withdrawn. Particularly for category B vehicles such as ice cream traders, is being reduced, however only an annual licence would be issued
- 1.38. Licences will be issued only once full payment is made and this will bring the street trading scheme in line with other licensing functions in addition to reducing administration costs.

### **Export Certificates**

- 1.39. The increase proposed reflects the deficit made previously and the increase in time taken due to the opening of the new port.

## **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 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)**

- 4.1 Section 70, Local Government (Miscellaneous Provisions) Act 1976, requires that public consultation is undertaken when the proposed fee for Hackney Carriage Proprietors Licences; Private Hire Vehicle and Operators Licences will exceed the prescribed limit of £25.
- 4.2 Where this limit is exceeded a notice must be placed in a local newspaper stating a number of prescribed requirements which will include the proposed fees and must give at least 28 days for persons to lodge objections.
- 4.3 If there are no objections, or any objections made have been withdrawn then the fee will come into effect after a specified date prescribed in the notice.
- 4.4 Any objections received must be considered by Thurrock Council. The requirement is to consider the objection but there is no requirement to revise the proposed fee unless they feel there is reason to.
- 4.5 There is no legislative requirement to consult on the change of fee for any other licensing regime. In line with good practice, for all fees that are subject to change, consultation will be undertaken with all licence holders and any relevant stakeholders with any responses being fed back to this committee.

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

- 6.1 This review will ensure the licensing service continues to be well managed and ensures that we can build pride, responsibility and respect to create safer communities.

## **7. Implications**

### **7.1 Financial**

Implications verified by: **Mike Jones**  
**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: **Chris Pickering**  
**Principal Solicitor - Litigation & Employment**

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 that has been followed.

### **7.3 Diversity and Equality**

Implications verified by: **Natalie Warren**  
**Community Development and Equalities Manager**

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 has been undertaken to ensure that customers have had an opportunity to contribute to any decision to change and the

council in this report can 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 1 – Proposed fees for 2016/17.
- Appendix 2 – Licensing Team accounts.
- Appendix 3 - Food Team accounts.
- Appendix 4 – Health and Safety Team accounts
- Appendix 5 – Consultation response to Taxi licence fees.
- Appendix 6 – Consultation response to Animal Welfare licence fees.
- Appendix 7 – Revised proposed fees for 2016/17 following consultation.

**Report Author:**

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