

Telford & Wrekin Council

Licensing Committee 26th March 2013

Licence Fees and Taxi Licensing Issues

Report of: Service Delivery Manager - Public Protection

1. Purpose

- 1.1 For Members to consider proposed level of Licence Fees and charges affecting the Hackney Carriage, Private Hire trades, Gambling and other licences.

2. Recommendations

2.1 It is recommended that Members

2.1.1. approve the level of proposed fees to come into force on 1st May 2013, subject to any consultation responses received;

2.1.2 consider whether or not, in the light of consultation, to resolve to remove the option for either a Hackney Carriage Driver Licence, or a Private Hire Driver Licence or a Dual Licence and in their place have one "Driver Licence".

2.1.3 resolve to remove the option for a 6 month and 12 month Driver Licence.

2.1.4 resolve to remove the option for a 6 month vehicle licence.

3. Summary

- 3.1 The level of fees and other charges for Hackney Carriage/Dual and Private Hire were last reviewed in 2011/2012 and implemented on 1st August 2012
- 3.2 The level of fees and other charges for Premises Licences under the Gambling Act 2005 and for other licences were last reviewed in 2009/2010 and implemented on 1st June 2010.
- 3.3 Directly linking to the Council priority of protecting and creating jobs and being a business supporting and business winning Council the Licensing team is radically reviewing the way that it provides its service to ensure that costs to the business

community that require licenses to do business are minimised.

- 3.4 Members can see that very few fees are being increased and 16.67% of the fees are actually being reduced, by as much as 53% with 79.4% staying the same. It is proposed to increase the licence fee for Pleasure Boats as this fee has not been reviewed since 2003. Although the Council has not to-date issued any Pleasure Boat licences, there should be a licence fee in place which will cover the cost of an application should one be submitted. It is proposed to increase the cost of compliance tests for Hackney Carriages and Private Hire Vehicles by £1 which directly reflects the increase to the Council of third party charges.
- 3.5 Working closely with the new Business Support team the Licensing Team will focus on pro-actively attracting and supporting potential licensees to make sure that the licensing process is as easy as possible for them to use.
- 3.6 It is very unfortunate that the Council has, for several years, been losing taxis, drivers and operators to a neighbouring Council. Members and officers have been engaging with the trade to understand why this is happening and officers are undertaking a lot of work to address the concerns of the trade which does have, it is fair to say, different views about what the Council can do to improve the service to the trade **and** ensure that the public are protected.
- 3.7 The Licensing Committee has been very clear that it views local licensing of a local taxi service as a priority – the significant reductions in Operators fees and drivers and vehicles fees, along with service improvements, is a definite response to the feedback from the trade and Members' concerns to encourage those providing a taxi service in our Borough, an absolutely essential public and business service, to come back and be locally regulated.

4. Previous Minutes

- 4.1 LC-131 – Licensing Committee 29th March 2010
- 4.1.2 LC-19 – Licensing Committee 13th March 2012
- 4.1.3 LC-04 – Licensing Committee 27th June 2012

5 Information

5.1 Background

- 5.1.1 The current level of fees and other charges for Hackney Carriage/Dual and Private Hire were implemented by the Licensing Authority on 1st August 2012.
- 5.1.2 The current level of fees for Premises Licences issued under the Gambling Act 2005 and for General Licences were implemented on 1st June 2010.
- 5.1.3 A local authority may recover the costs of administering Hackney Carriage/Private Hire, Gambling and other licences. When setting fees the Council must have regard to the impact that any increase may have upon the livelihood of licence holders. However, it is also important not to subsidise this service area to the detriment of front line services that are in line with other Council priorities. However, the Licensing Team owe it to licensees that its service is as efficient and

effective as it can be to reduce the burden on business. in these difficult economic times.

- 5.1.4 The Licensing Service is not able to fully recover the costs of delivering the Licensing Service. Only certain statutorily defined costs can be recovered, for example the service cannot recover the costs of enforcement except in relation to Hackney Carriage/Private Hire Vehicle Licensing Cinema Licensing or Gambling Licensing.
- 5.1.5 There are also permits, registrations and licences where the level of fees are either set by statute or statutory instrument and many of these have not historically recovered the Council's cost of administering the service..
- 5.1.6 A review of Licence fees has been carried out following discussions with, particularly the taxi trade, and in the light of an ongoing review of administrative processes to make them as efficient as possible.
- 5.1.7 One such efficiency is the proposed removal of the option for a new driver to have a six month licence and for existing drivers to have either a 12 month or 3 year licence. Officers propose to harmonise licensing requirements to maximise efficiencies and reduce costs by issuing a 3 year licence and to bring renewals of medicals and criminal record disclosures in line with the licence renewal date..
- 5.1.8 Proposed new licence fee levels for Hackney Carriage and Private Hire Licences are attached at Appendix A. Other charges which are not listed are for third party costs which will be charged to the trade at cost, having been subject to robust procurement to ensure value for money . The table of proposed licence fees show the current fee in Column A, and the proposed fee, which has either stayed the same or gone down, is shown in Column B.
- 5.1.9 There are separate fees listed for compliance testing for Private Hire Vehicles and for Hackney Carriages. Hackney Carriage compliance tests also include the testing of the meter on the measured mile and this makes the test more lengthy and thus more expensive for Hackney Carriages.
- 5.1.10 Fee bands for Gambling premises licences have been set by The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007. Licensing Authorities are not permitted to exceed the maximum fees specified in the Regulation. Having reviewed the fees it is proposed to keep them at the current levels, attached in Appendix B
- 5.1.11 The Council's current and proposed new licence fee levels for other Licences are attached at Appendix C. The table of proposed licence fees show the current fee in Column A, and the proposed fee, which has either stayed the same or gone down, is shown in Column B.
- 5.1.12 The Council's Licensing Service has carried out a benchmarking exercise with Local Authorities who are in the Council's benchmarking group and also with neighbouring authorities. The benchmarking information is attached at Appendix D.

5.2 Equal Opportunities

5.2.1 A Community Impact Assessment has been carried out on the review of Licence fees and charges. A copy is attached at Appendix E.

5.3 Environmental Impact

5.3.1 Not applicable for the purposes of this report.

5.4 Legal Comment

5.4.1 Any licence fees that are set at the discretion of the authority should be reasonable and proportionate.

5.4.2 Section 53(2) Local Government (Miscellaneous Provisions) Act 1976 deals with Licence fees for drivers of hackney carriages and private hire vehicles. A council may demand and recover for the grant to any person of a licence to drive a hackney carriage or a private hire vehicle such fee as they consider reasonable with a view to recovering the cost of issue and administration.

5.4.3 Section 70 Local Government (Miscellaneous Provisions) Act 1976 deals with licence fees for the grant of vehicle and operators' licences as may be resolved from time to time and as may be sufficient to cover in whole or in part the reasonable costs of

- a) carrying out the inspections of hackney carriages and private hire vehicles for the purpose of determining whether any such licence should be granted or renewed
- b) the reasonable cost of providing hackney carriage stands; and
- c) any reasonable administrative or other costs in connection with the above and with the control and supervision of hackney carriages and private hire vehicles.

5.4.4 Section 6 Local Government (Miscellaneous Provisions) Act 1982 deals with applications for licences for sex establishments. Section 19 deals with fees in relation to grant, variation, renewal or transfer which shall be reasonable as determined by the appropriate authority.

5.4.5 Section 7 Local Government (Miscellaneous Provisions) Act 1982 Part III deals with street trading consents. A council may charge such fees as they consider reasonable for the grant or renewal of a street trading consent.

5.4.6 Section 184 Gambling Act 2005 deals with annual fees. An annual fee means a fee of such amount as may be prescribed and "prescribed" means prescribed by regulations made – a) in relation to premises licences issued by authorities in England and Wales, by the Secretary of State. Regulations prescribing the annual fee may, in particular, make different provision for – (a) licenses authorising different classes of activity, or (b) different circumstances.

5.4.7 Section 1(2) Animal Boarding Establishments Act 1963 deals with applications for boarding establishments for animals for which there is provision for payment of such fee as may be determined by the local authority.

5.4.8 Section 1(1) Breeding of Dogs Act 1973 deals with applications for the licensing of

breeding establishments for dogs for which there is provision for payment of such reasonable sum as the authority may determine .

- 5.4.9 Section 2 Pet Animals Act 1951 deals with applications for licensing pet shops for which there is provision for payment of such fee as may be determined by the local authority.
- 5.4.10 Section 2 Performing Animals (Regulation) Act 1925 deals with applications for registration to exhibit or train any performing animals for which there is provision for payment of such fee as appears to the authority to be appropriate.
- 5.4.11 Section 1(2) Dangerous Wild Animals Act 1976 deals with applications for a Licence for which there is provision for such fee as the local authority may stipulate.
- 5.4.12 Section 1 Zoo Licensing Act 1981 deals with applications for grant, renewal, alteration and transfer which there is provision of such reasonable fee as they determine and reasonable expenses.
- 5.4.13 Section 1 Riding Establishments Act 1964 deals with applications to keep a riding establishment for which there is provision for such fee as may be determined by the local authority.
- 5.4.14 Vehicle (Crimes) Act 2001 deals with registration for motor salvage operators. A local authority may set the level of fees to be charged in respect of applications—
- (a) with a view to recovering the reasonable costs incurred by them in connection with the administration; and
 - (b) so that different fees are payable in different circumstances.
- 5.4.15 Section 94 Public Health Acts Amendment Act 1907 deals with the licensing of pleasure boats and pleasure vessels and the local authority may charge for each type of licence such annual fee as appears to them to be appropriate.
- 5.4.16 Only administration and issue costs can be recovered (not enforcement) R (app Simply Pleasure and Ors) v Westminster City Council [2012] EWCH 1260 Admin for licences which are part of the EU Services Directive. This does not apply to Hackney Carriage/Private Hire Licensing, Cinema Licensing or Gambling Licensing which are not covered by the EU Services Directive.
- 5.4.17 A Council cannot make a profit from its Licence fees R v Manchester City Council ex parte King 89 LGR 696 and R (app Simply Pleasure and Ors) v Westminster City Council [2012] EWCH 1260 Admin.

5.5 Links with Corporate Priorities

- 5.5.1 This report has links to the following priorities :

Protect and Support our Vulnerable Children and Adults
Protect and create jobs as a “Business Supporting, Business Winning Council”

5.6 Financial Comment

- 5.6.1 The licensing service has an income budget of £381.6k in respect of license fees which has not been adjusted over the years to reflect the shortfalls experienced in licensing income. The cost of the licensing service is £266.8k leaving the service with a bottom line surplus of £114.8k which contributes to the Council's overall budget position.
- 5.6.2 The proposed license fees, which have been calculated around a cost recovery model, will result in the service recovering £202.9k in income in 2013/14. This leaves £63.9k of the service costs unfunded. Of this £43.9k relates to enforcement costs which are non chargeable and therefore can not be recovered through income. The licensing service are intending to review enforcement activity in order to reduce these costs and also look for further savings to reduce the remaining £20k gap.
- 5.6.3 The income figures above have been calculated using information around the current number of licenses. Should the number of licenses increase then income levels will also increase, however income will reduce if further licenses are not renewed with the Council of which there is a significant risk in 2013/14 if fees remain the same. There is an overall budget shortfall of £178.7k against income for the licensing service for 2013/14 when applying the proposed fees set out in this report against the current number of licenses. This compares to an income shortfall of £128.7k for licenses in 2012/13 mainly as a result of the loss of income from taxi licenses. In setting fees as proposed in this report there is a possibility that the number of licenses will increase which will reduce the income shortfall. Finance have been working closely with the Licensing Team to try and reduce the budget gap by establishing the proposed fees and through identification of further savings.
- MLB 15.03.13

5.7 Risks and Opportunities

- 5.7.1 The following key risks and opportunities associated with this report have been identified and assessed and arrangements will be put in place to manage them.
- a failure to publish Licence Fees as prescribed by Regulation could give rise to a judicial review of the process leading to that failure.
 - The level of fees set being unreasonable arising to a challenge by judicial review.

6. Ward Implications

- 6.1 This report has Borough wide Implications

7. Background Papers

- 7.1 Local Government (Miscellaneous Provisions) Act 1976
7.2 Local Government (Miscellaneous Provisions) Act 1982
7.3 Town Police Clauses Act 1847
7.4 Transport Act 1981
7.5 Gambling Act 2005

- 7.6 Animal Boarding Establishments Act 1963
- 7.7 Breeding of Dogs Act 1973
- 7.8 Pet Animals Act 1951
- 7.9 Performing Animal's (regulation) Act 1925
- 7.10 Dangerous Wild Animals Act 1976
- 7.11 Zoo Licensing Act 1981
- 7.12 Riding Establishments Act 1970
- 7.13 Vehicle (Crimes) Act 2001

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