

Telford & Wrekin Council

Licensing Committee - 24th March 2015

Licence Fees Review

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, Gambling and other licences.

2. Recommendations

- 2.1 It is recommended that Members approve the level of proposed fees to come into force on 1st June 2015, subject to any consultation responses received.**

3. Summary

- 3.1 The level of fees and other charges for Hackney Carriage/ Private Hire, Gambling and General Licences were last reviewed in the Financial Year 2013/2014 and implemented on 1st May 2014 for the Financial Year 2014/2015.
- 3.2 As a business supporting and business winning Council Public Protection continues to provide a service which ensures that costs to the business community that require licences to do business are minimised.

4. Previous Minutes

- 4.1 LC17 – Licensing Committee 14th January 2014.

5 Information

5.1 Background

- 5.1.1 The current level of fees and other charges for Hackney Carriage/Dual, Private Hire, Gambling and General Licences were implemented by the Licensing Authority on 1st May 2014.
- 5.1.2 A local authority may recover the costs of administering Hackney Carriage/Private Hire, Gambling and other licences. A Council, when setting fees, 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 Service owe it to licensees that its service is as efficient and effective as it can be to reduce the burden on business. The aim of the local authority must be to protect the public and to provide an efficient and effective service to licence holders and stakeholders.

- 5.1.3 The setting of fees and charges must be calculated and reasonable. It must be limited to an amount that recovers the costs of carrying out the functions of the Local Authority under the Acts of Parliament listed at paragraph 7 of this report. Each charging regime must be separately accounted.
- 5.1.4 The Licensing Service is not able to fully recover the costs of delivering the Licensing Service. 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.
- 5.1.5 There are also permits, registrations and licences where fees are either set in statute and do not fully recover the Council's cost of administering the licence or where statute does not allow for a fee to be charged at all.
- 5.1.6 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.
- 5.1.7 However, a Council can recoup a deficit R v Tower Hamlets London Borough Council ex parte Tower Hamlets Combined Traders Association (1994) COD 325 and R (app Simply Pleasure and Ors) v Westminster City Council [2012] EWCH 1260 Admin
- 5.1.8 Section 53(2) of the Local Government (Miscellaneous Provisions) Act 1976 [LG(MP)A1976] allows a Local Authority to "demand and recover for the grant to any person of a licence to drive a hackney carriage or a private hire vehicle such a fee as they consider reasonable with a view to recovering the costs of issue and administration....". This means that for the purpose of charging licence fees for a Private Hire or Hackney Carriage driver, the Council may recover administrative costs only.
- 5.1.9 Section 70 LG(MP)A1976 allows a Local Authority to "charge such fees for the grant of vehicle and operators' licences as may be resolved by them from time to time..." These charges may be sufficient to cover entirely or partly the reasonable costs of carrying out inspections of hackney carriages and private hire vehicles for the purpose of determining whether the vehicle is fit for purpose; the costs of providing hackney carriage stands; any reasonable administrative or other costs in relation to the above and in relation to the control and supervision of hackney carriages and private hire vehicles.
- 5.1.10 Licence Fees were reviewed in the previous Financial year and Members resolved in 2014 to keep licence fees at the current level for the forthcoming

financial year (2014/2015) to allow the changes mentioned in the Service Delivery Manager's Report to take effect. A further review of licence fees has now been undertaken for the purpose of this report...

5.1.11 Current and Proposed new licence fees are attached at Appendix A.

5.1.12 There are separate fees listed for compliance testing for Private Hire Vehicles and for Hackney Carriages as Hackney Carriage compliance tests include meter testing on the measured mile.

5.1.13 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 (attached at Appendix B).

5.1.14 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. This data is for information only and the Council should not set its licence fees merely by comparing with other authorities. The benchmarking information (Appendix C) will be presented at the meeting, and can be viewed on the Council's website at <http://apps.telford.gov.uk/CouncilAndDemocracy/Meetings/Meeting/MTMxMw%3d%3d>

5.2 Equal Opportunities

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

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.

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

- 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 Schedule 3 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.
- 5.4.18 The decision that the Licensing Committee are being asked to make today must include the following in order to ensure fair, transparent decision making:-
- All members of the Licensing Committee taking part in this decision must read this report in its entirety including the recommendations and the appendices.
 - If any member of the Licensing Committee believes that any aspect of the report or document is ambiguous or requires further explanation then questions should be raised with those officers presenting the report before any decision is made.

TS 12 March 2015

5.5 Links with Corporate Priorities

5.5.1 This report has links to:

1. Creating a safer community
- (b) Safeguard health and safety of the community

5.6 Financial Comment

5.6.1 The budgeted income for licensing activity included in Appendix A is £0.187m in 2015/16. Income received to date in 2014/15 is £0.172m.

5.6.2 The proposed charges for licenses have been calculated on the recovery of costs relating to the function, such as staff costs associated with administration of the licence application. This involved a bottom-up process review for each licence to fully understand activity and the related costs.

5.6.3 Charges have been benchmarked against several other Local Authorities – see Appendix C.

5.7 Risks and Opportunities

5.7.1 In proposing this action the Corporate Risk Management Methodology has been complied with. This approach is not intended to eliminate risks but to identify the risks and manage them. However not all risks can be managed all of the time and some risks may not have been identified.

5.7.2 The following key risks and opportunities associated with this action have been identified and assessed and arrangements will be put in place to manage them.

The following key risks and opportunities associated with these decisions is :

- 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.

5.7.3 Having identified this risk, processes and procedures have been put in place to ensure that Regulations are complied with.

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

Report prepared by, Suzanne Fisher, Principal Licensing Officer, Licensing Service, Darby House - For further information please telephone 01952-383261 or email Licensing@telford.gov.uk