

18 December 2014		ITEM: 6
Licensing Committee		
Setting of licensing Fees for Consultation		
Wards and communities affected: All	Key Decision: Key	
Report of: Paul Adams – Principal Licensing Officer		
Accountable Head of Service: Gavin Dennett – Head of Public Protection		
Accountable Director: David Bull – Director of Planning and Transportation		
This report is: Public		

Executive Summary

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

1. Recommendation(s)

1.1 Agree for consultation with local stakeholders on all fees that are subject to an increase or decrease as detailed in appendix A, with the results of the consultation to be reported to the next Licensing Committee.

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.
 - Draft LGA Guidance on Locally Set Fees, issued September 2013.
 - Welsh Technical Panel Templates
 - Case law.
- 2.7 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.
- 2.8 Benchmarking of fees be 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.
- 2.9 Thurrock Council's locally set licence fees were last set in 2011, at this time it was proposed that they be reviewed within 3 years and that they be monitored during this period to ensure that they remained reasonable.

3. Issues, Options and Analysis of Options

- 3.1. A scheduled of proposed fees, where there is to be a change, for the 2015 – 2016 period is attached as Appendix A, for consultation.
- 3.2. Appendix B shows the income and expenditure for licences administered by the Licensing Team.
- 3.3. Appendix C shows the income and expenditure licences administered by other parts of Public Protection.

Animal Welfare Licences

- 3.4. 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)
- 3.5. A deficit of £600 has been incurred on these licence types which has been rolled forward into the calculation of the proposed fees.
- 3.6. This has resulted in an 8% increase to these fees.
- 3.7. 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.

Hackney Carriage and Private Hire

Private Hire Operators Licences

- 3.8. All Private Hire Operators Licences are now issued for 1 year, with annual renewal.
- 3.9. A small deficit of £179 exists for this licence type; however there is no proposed change to this fee level as the deficit is sufficiently negligible not to warrant a change to the fee.

Vehicle/Proprietors Licences

- 3.10. Both Hackney Carriage and Private Hire Vehicle Licensing shows a small deficit, which is largely due to the annual compliance test being met from the licence fee, this was paid for by the licence holder previously.
- 3.11. It is proposed that the Hackney Carriage Vehicle fee be increased by 8%, this increase is due to the deficit shown and a reduction in the number of Hackney Carriage Vehicles in the last 3 years.
- 3.12. It is proposed that the Private Hire Vehicle fee be reduced by 3%, this decrease is due to a small increase in the number of Private Hire Vehicles in the last 3 years.
- 3.13. It is 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.
- 3.14. 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.
- 3.15. 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

- 3.16. All Hackney Carriage or Private Hire Drivers Licences are granted for 1 year.
- 3.17. Currently the cost of the DBS check is included in the fee, it is proposed that the cost of the DBS check is removed from the renewal fee, and is applied separately when a DBS check is required. Currently a DBS Check is required every 3 years.
- 3.18. The DBS Check fee would still be included within the Grant fee.
- 3.19. The cost of a DBS Check is £44, however there is an online update service provided by the DBS, which has a cost of £13 per year, payable direct to the DBS by the driver. It is proposed that where the driver is signed up to the update service no additional fee is payable for their DBS, after registration. The proposal for the fee charged for the DBS check to carry out outside of the update service is £64 (£44 DBS charge and £20 administration charge).
- 3.20. A DVLA check will be carried out every year on grant or renewal; this is included in the fee.
- 3.21. A Group 2 medical will still be required every three years or otherwise in accordance with the licence terms and conditions, and this cost will be met direct by the driver.
- 3.22. 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 A.

Sex Establishments

- 3.23. Sex establishments for this purpose are to include Sex Shops, Sex Cinema's and Sexual Entertainment Venues.
- 3.24. A negligible 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.

Licensing Act 2003

- 3.25. 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 expected for this in 2015.

Gambling Act 2005

- 3.26. 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

- 3.27. This Licence is granted for three years, as this licence has only been in effect for 1 year, 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.
- 3.28. The Setting of this fee is still an executive function so this is for information only.

Massage and Special Treatments

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

Street Trading

- 3.30. All street trading licences are granted for a period of 1 year and fees are set locally.
- 3.31. It is proposed that a new fee structure is introduced for static vehicles falling into category A1, A2 & A3. Currently a single licence fee is charged for these vehicles, however it is proposed that a grant and renew fee structure is introduced to reflect the difference in work required.
- 3.32. There is no proposal to change the yearly fee for category B vehicles such as ice cream traders, however only a yearly licence would be issued.
- 3.33. Due to legal challenges nationally regarding street trading, together with other licencing changes, it is proposed to reduce the fees being charged in categories A1, A2 & A3 to narrow the fee range being charged between these categories. The proposed fees changes can be found in Appendix A.
- 3.34. Traders are currently permitted to pay quarterly for licenses and it is proposed that this facility for all consent categories is withdrawn.
- 3.35. Licences will be issued only once full payment is made and this will bring the street trading scheme in line with other licencing functions in addition to reducing administration costs.

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)

- 5.1 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.

- 5.2 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.
- 5.3 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.
- 5.4 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.
- 5.5 There is no legislative requirement to consult on the change of fee for any other licencing regime, 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 to be followed.

7.3 **Diversity and Equality**

Implications verified by: **Teresa Evans**
Equalities and Cohesion 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, 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 for 2015/16.
- Appendix B – Licensing Department Accounts
- Appendix C – Accounts for all other parts of Public Protection carrying out Licensing Functions

Report Author:

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