

11 December 2018

Planning and Licensing Committee

Setting of Licence Fees for 2019/20

Report of: *Paul Adams, Joint Licensing Manager*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

1.1 This report is to agree fees and charges associated with licence applications for the 2019/20 period, for recommendation to Council for setting.

2. Recommendation(s)

2.1 **For members to approve the Fees and Charges as detailed in Appendix A; and the Appendix A is referred to Policy Projects and Resources Committee as part of the Budget setting process.**

3. Introduction and Background

3.1 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.

3.2 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.

3.3 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) and some of the Gambling Act 2005 Fees.

- 3.4 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 most fees under the Gambling Act 2005.
- 3.5 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.
- 3.6 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.
- 3.7 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.
- 3.8 Benchmarking of fees have been 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 differences in fees.
- 3.9 Brentwood Council last set its local fees in 2018.

4. Issue, Options and Analysis of Options

- 4.1 A Schedule of proposed fees for the 2019/20 period are attached as Appendix A.
- 4.2 It is intended that the fees will come into effect from 1 April 2019, subject to approval by Council.

Animal Welfare Licences

4.3 Animal welfare licences for the purpose of this report applies to:

Activities covered by The Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018, namely

- Selling animals as pets;
- Providing for or arranging for the provision of boarding for cats or dogs;
- Hiring out horses;
- Dog Breeding; and
- Keeping or training animals for exhibition.

And includes;

- Dangerous Wild Animals (Dangerous Wild Animals Act 1976)
- Zoos (Zoo Licensing Act 1981)

4.4 In addition to the fee the applicant will also continue to be invoiced for the fee charged to Brentwood Council for the Vet inspection of the premises. The Vet fee will vary from premises to premises and is only charged where applicable.

4.5 Most of these fees were only set in October 2018 when the Animal Welfare (Licensing of Activities Involving Animals) Regulations came into effect, and there are no proposals to amend these fees now.

Hackney Carriage and Private Hire

Private Hire Operators Licences

4.6 There is a deficit on this area of licensing, however it is proposed not to increase the fee at this stage. The situation will be monitored and will be reviewed during this year.

4.7 If this fee is to be varied, then the statutory consultation process would need to be followed.

Vehicle/Proprietors Licences

4.8 Vehicle licensing is in deficit from previous years, which will be carried forward into next year. Current predictions based on keeping the fee at the same level will reduce the deficit in the next 3 years. The situation will be monitored and will be during this year once changes to the Licensing Team structure and process have fully imbedded and a review of time monitoring has taken place.

4.9 If this fee is to be varied, then the statutory consultation process would need to be followed.

Hackney Carriage and Private Hire Drivers Licences

4.10 There is no proposal to amend these fees for this year as they are currently operating on a cost recovery model. We have introduced a 1-year fee, to allow for more flexibility for applicants that are new to the

profession, do not wish to licence for three years, or have financial issues affording a three-year licence. This addition has been requested by Trade representatives and is supported by the TTCG and Officers.

Sex Establishments

- 4.11 Sex establishments for this purpose are to include Sex Shops, Sex Cinema's and Sexual Entertainment Venues.
- 4.12 There no proposal to increase this fee, which will maintain the cost recovery basis.

Licensing Act 2003

- 4.13 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

- 4.14 There is no proposal to change the fee charged for 2019/20.
- 4.15 The maxim fee is currently charged.

Scrap Metal Dealers Act 2013

- 4.16 There is no proposal to change the fees charged for 2019/20.

Table and Chair Licensing

- 4.17 There is no proposal to increase this fee, which will maintain the cost recovery basis.

Street Trading

- 4.18 There is no proposal to change the fee charged for 2019/20
- 4.19 A review of the current provisions and extent of the scheme will take place this year and any variation to the fees charged will be reviewed at that time.

Special Treatments

- 4.20 There is no proposal to increase this fee which will maintain the cost recovery basis.

Road closures

- 4.21 There is no proposal to change the fee charged for 2019/20.

5. Reasons for Recommendation

- 5.1 The fees and charges must be agreed by Full Council and cannot be set by this committee. The fees proposed are on a cost recovery basis where possible.

6. Consultation

- 6.1 There is no consultation required under legislation relating to any of the discretionary fees outlined in this report that are subject to change. However, these will be published on the Council's website and are in all cases open to challenge by way of Judicial Review should they be inappropriately set.
- 6.2 If changes to the Hackney carriage or Private Hire Vehicle fees, or the Private Hire Operator fees, are considered then public consultation must be carried out in accordance with the requirements contained within Section 65, Local Government (Miscellaneous Provisions) Act 1976.

7. References to Corporate Plan

- 7.1 None

8. Implications

Financial Implications

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- 8.1 All costs associated with providing chargeable services have been reviewed in order to ensure fees & charges are fully cost recoverable.
- 8.2 In the case of licensing fees & charges benchmarking has been carried out but only to be used as a comparison.
- 8.3 The fees referred to, in this report will inform the 2019/20 budget setting process.

Legal Implications

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- 8.4 There are no additional legal implications other than those already mentioned above and particularly in section 3.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

None

9. Background Papers (include their location and identify whether any are exempt or protected by copyright)

9.1 Local Government (Miscellaneous Provisions) Act 1976.

10. Appendices to this report

- Appendix A - Proposed 19/20 Licensing Fees and Charges

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