

<b>Committee(s):</b> Licensing Committee	<b>Date:</b> 20 December 2022
<b>Subject:</b> Licensing Fees	<b>Wards Affected:</b> All
<b>Report of:</b> Paul Adams – Licensing Manager	<b>Public</b>
<b>Report Author/s:</b> Name: Paul Adams, Licensing Manager Telephone: 01277312503 E-mail: paul.adams@brentwood.gov.uk	<b>For Decision</b>

### Summary

This report sets out the process and methodology for the setting of Licence Fees associated with licence applications under the remit of the Licensing Committee and proposes the licencing fees for consultation where necessary for the 2023-2024 financial year.

### Recommendation(s)

**Members are asked to:**

- R1. To agree for the proposed fees and charges as set out in Appendix A for the 2023- 2024 financial year to go out to public consultation.**

### Main Report

#### **1. Introduction and Background.**

- 1.1. 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 fee that has by statute, a capped maximum amount.
  - A locally set fee with no maximum cap.
- 1.2. 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.
- 1.3. 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).main aspects of the standards are:
- 1.4. 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 the cost it is higher than the cap, then a loss will need to be made. This relates to fees under the Gambling Act 2005. Fees are currently set at the maximum cap.

- 1.5. 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, Street Trading, and all Animal Welfare Licences.
- 1.6. 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.
  - DEFRA Guidance, Animal Welfare Licence Fees - A Practical Guide to Fee Setting
  - Welsh Technical Panel Templates
  - Case law.
- 1.7. Cost recovery includes the covering the full cost of administering and ensuring compliance with the licensing regime. Each licensing regime has some slight differences but generally the costs that could be included calculations and apportioned appropriately are:
  - Administration - processing of the licence, officer time, printing, postage and licensing software, etc.
  - Visits - officer time for initial visits, renewal inspections, etc.
  - Third Party Costs – veterinary visits, vehicle inspections etc.
  - Consultation and liaison with third parties – engaging with Responsible Authorities and other stake holders.
  - Management Costs – apportioned cost of the management involvement in any process.
  - Democracy costs – committee costs for determining applications
  - On Costs – payroll, accommodation, finance, legal, travel
  - Training – For officers and members
  - Policies – development, consultation, publishing and review.
  - Web material – compliance with EU Directive, online applications.
  - Compliance work – ensuring licence holders are compliant with the licence.
  - Fees – setting and reviewing of fees
  - Appeals - legal costs of appeals
  - Maintaining registers – local and national
- 1.8. There are costs that are unrecoverable; this should include the cost of enforcement action in relation to un-licensed persons/premises/vehicles. This type of action should be funded out of the Council's General Fund.
- 1.9. In order to ensure that fees remain reasonable and proportionate it is necessary to carry out a regular review of the fees.
- 1.10. 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.

- 1.11. 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 could create significant differences in fees.

## 2. Issue, Options and Analysis of Options

- 2.1. Brentwood Borough Council's locally set licence fees were last increased in 2018. The fees were reviewed and set last year, but due to the impact of the COVID pandemic at that time, fees were held at their current level despite the need for an increase since.
- 2.2. A set of Taxi trading accounts have been prepared which have included the cost of providing each area of licensing based on the percentage of time officers spend on each activity, against the income against each area, which can be found in **Appendix A**.
- 2.3. Based on the trading accounts the proposed fees and charges for the 2023 – 2024 period are attached as **Appendix B**. It is intended that this fee change will come into effect from 1<sup>st</sup> April 2023, after consultation and further consideration by this committee. A summary of the changes is provided below.
- 2.4. Hackney Carriage and Private Hire Drivers fees. An increase in fees is required to reduce the growing deficit, the income is currently below the cost of the service provision and a rise is required to ensure cost recovery. The lower percentage rise of a three-year licence reflects the efficiencies and savings that exists when the licence is renewed every three years providing better value for a licensed driver. A separate fee for Hackney Carriage and Hackney Carriage Licences has been introduced.
- 2.5. Hackney Carriage and Private Hire Vehicles. An increase in both fees is required as there is a building deficit in both areas. This increase will help reduce the deficit between income and expenditure to allow for full cost recover.
- 2.6. Private Hire Operators. An increase is required for private hire operator licences due to the carry forward deficit that has accumulated.
- 2.7. Animal Licences. An increase is required for the animal establishment licences, which includes pet shops, dog boarders and breeders. The Zoo Licence fee has been significantly increased to reflect the level of work that is required.
- 2.8. Street Trading. The Policy is currently out for review, which will revise and extend the scheme. The fee proposes will better reflect the work associated with the extended scheme.

- 2.9. Skin Piercing and Scrap Metal Licensing. These have all been increased to reflect the increase in costs..

### **3. Reasons for Recommendation**

- 3.1. 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 significant 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.

### **4. Consultation**

- 4.1. Consultation will be undertaken on any significant proposed changes to fees, or where consultation is required by statute.
- 4.2. Consultation will include communication of the proposed changes to all relevant licence holders for comments to be submitted on the council's consultation portal.
- 4.3. Under the Local Government (Miscellaneous Provisions) Act 1976, with regards to hackney carriage proprietors' licences, private hire vehicle licences and private hire operator licences, there is a requirement where the fee charged is greater than £25 to consult on the proposed fee as prescribed by the legislation.
- 4.4. The procedure requires that a notice must be published in a local newspaper, and at the offices, which must give 28 days from the date of publishing for objections to be lodged and advertise the date the fees will come into effect.
- 4.5. If objection is received and has not been withdrawn, then the council must consider the objections. If this is the case, then this committee will consider the objections

### **5. References to Corporate Plan**

- 5.1. None.

### **Implications**

#### **Financial Implications**

**Name/Title: Tim Willis, Interim Director of Resources**

**Tel/Email: 01277 312500/tim.willis@brentwood.rochford.gov.uk**

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 financially viable for the current financial year.

### **Legal Implications**

**Name & Title: Andrew Hunkin, Interim Director of People & Governance and Monitoring Officer**

**Tel & Email: 01277 312500/andrew.hunkin@brentwood.rochford.gov.uk**

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 sets out what is considered reasonable and the process to be followed.

### **Economic Implications**

**Name/Title: Phil Drane, Director of Place**

**Tel/Email: 01277 312610/phil.drane@brentwood.rochford.gov.uk**

There are no direct financial implications for Brentwood Borough Council arising from this report.

### **Equality and Diversity Implications**

**Name/Title: Kim Anderson, Partnerships, Leisure & Funding Manager**

**Tel/Email: 01277 312500/kim.anderson@brentwood.gov.uk**

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.

### **Health & Wellbeing Implications**

**Name/Title: Jo Cory, Corporate Health & Wellbeing Officer**

**Tel/Email: 01277 312500/jo.corey@brentwood.gov.uk**

There are no direct Health or Wellbeing implications arising from this report.

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

None.

### **Background Papers**

None.

## **Appendices to this report**

**Appendix A** – Licence Trading Accounts

**Appendix B** – Proposed Fees 2023/2024

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