

<b>Committee(s):</b> Licensing Committee	<b>Date:</b> 14 March 2023
<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. It also considers the responses from the public consultation in relation to the proposed fees for the 2023-2024 financial year.

### Recommendation(s)

**Members are asked to:**

- R1. Consider the consultation responses received and approve the proposed fees and charges as set out in Appendix B for the 2023/24 financial year.**

### 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).
- 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 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.
- 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 was presented at the previous committee.
- 2.3. Following agreement at the last Licensing Committee, a public consultation was undertaken with all licence holders, inviting them to view the proposed fees and make comments. There have been 10 responses relating to the Taxi fees, All the responses can be found in the table in **Appendix A**, where officers have responded to the comments received where necessary.
- 2.4. 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. No changes have been made to the proposed fees following the consultation.

## 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 has been undertaken on any significant proposed changes to fees, or where consultation is required by statute.
- 4.2. Consultation did include communication of the proposed changes to all relevant licence holders for comments to be submitted to the Licensing department in writing or by email.
- 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. A notice has been 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. As objections have been received and have not been withdrawn this committee must consider the objections.

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

- 5.1. None.

## **Implications**

### **Financial Implications**

**Name/Title: Tim Willis, Interim Director Resources and Section 151 Officer**  
**Tel/Email: 07870 863270 / 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: Claire Mayhew, Corporate Manager (Democratic Services) and Deputy Monitoring Officer**  
**Tel & Email: 01277 312741/claire.mayhew@brentwood.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 set out what is considered reasonable and the process to be followed.

### **Economic Implications**

**Name/Title: Phil Drane, Corporate Director (Planning and Economy)**  
**Tel/Email: 01277 312500/philip.drane@brentwood.gov.uk**

There are no direct economic 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 has been 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.

**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: Consultation responses
- Appendix B: Proposed Fees 2023/24