

Committee(s): Licensing Committee	Date: 16 January 2024
Subject: Licensing Fees	Wards Affected: All
Report of: Paul Adams – Licensing Manager	Public
Report Author/s: Name: Paul Adams, Licensing Manager Telephone: 01277312503 E-mail: paul.adams@brentwood.gov.uk	For Decision

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 2024 – 2025 financial year.

Recommendation(s)

Members are asked to:

- R1. To agree the proposed fees and charges as set out in Appendix B for the 2024- 2025 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 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. **Appendix C** provides benchmarking against fees and charges taken from the websites of other South Essex Licensing Authorities for comparison of current fees.

2. Issue, Options and Analysis of Options

- 2.1. Brentwood Borough Council's locally set licence fees were last increased in 2023.
- 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 2024 – 2025 period are attached as **Appendix B**. It is intended that this fee change will come into effect from 1st April 2024, A summary of the changes is provided below.
- 2.4. Hackney Carriage and Private Hire Drivers fees. No increase is proposed this year. While there is a small in year deficit predicted, it is not sufficient to increase fees at this stage. This will be monitored and reviewed when necessary.
- 2.5. Hackney Carriage and Private Hire Vehicles. No increase is proposed this year. While there is a small in year deficit predicted, it is not sufficient to increase fees at this stage. This will be monitored and reviewed when necessary.
- 2.6. Private Hire Operators. No increase is proposed this year. While there is a small in year deficit predicted, it is not sufficient to increase fees at this stage. This will be monitored and reviewed when necessary.
- 2.7. Animal Licences. A 6% increase is required for the for these licence types, to ensure that the service operates on a cost recovery basis.
- 2.8. Street Trading. A 6% increase is required for the for these licence types, to ensure that the service operates on a cost recovery basis.
- 2.9. Skin Piercing and Scrap Metal Licensing. A 6% increase is required for the for these licence types, to ensure that the service operates on a cost recovery basis.
- 2.10. Sex Establishment Licensing. A 6% increase is required for the for these licence types, to ensure that the service operates on a cost recovery basis.

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. The proposed increase will ensure that the licensing service remains as cost neutral as possible.

4. Consultation

- 4.1. Consultation on the proposed fee change is not being undertaken. Consultation should be undertaken on any significant proposed changes to fees, or where consultation is required by statute as below. None of the changes proposed meet these criteria.
- 4.2. Should any increase be considered 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.
- 4.3. 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.
- 4.4. 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:

Tel/Email:

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

Tel & Email: 01277 312500/ @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 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 2024/2025

Appendix C - Benchmarking

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