

# LICENSING AND REGISTRATION COMMITTEE

08 MARCH 2023

## REPORT OF THE CORPORATE DIRECTOR – OPERATIONAL SERVICES

### A6. REVIEW OF THE FEES AND CHARGES FOR ANIMAL AND BEAUTY TREATMENT LICENSING

(Report prepared by Carol Archibald Tim R Clarke and Ashley Wood)

#### PART 1 – KEY INFORMATION

##### PURPOSE OF THE REPORT

To submit to the Committee details of the current licensing fees and charges for the issuing and renewal of licenses issued by the Environmental Health service, that are non-executive functions, and to seek approval for those fees for the current financial year and changes to those fees and charges to take effect from 1 April 2023 (or as soon as possible thereafter taking account of legislative requirements).

##### EXECUTIVE SUMMARY

This is the first occasion for a number of years that fees and charges have been placed before this committee for Animal Licensing and Beauty Treatment Licensing. Fees and charges for this work have been set as part of the corporate fees and charges setting process and it has been identified that these fees, relating to non-executive function, should in fact be set by this Committee. Fees were most recently set in consultation with the portfolio holder for Environment & Public Space on 9<sup>th</sup> February 2022.

The current schedule of fees and charges is presented for approval along with the proposed fees and charges to take effect from April 2023.

As in previous years Officers have reviewed the fees and charges payable for applications within the remit of the Committee and, where a discretion exists, propose that increases be approved to better reflect cost recovery in relation to the administration of the licensing areas concerned. The proposed fees and charges for 2023/24 along with the fees and charges for 2022/23 are set out within Appendix A to this report.

##### RECOMMENDATION(S)

It is recommended that:

- 1) The current fees and charges in place since April 2022 as set out in column A of Appendix A be approved;
- 2) That the proposed fees and charges for 2023/24 set out in column B of Appendix A be approved with effect from April 2023; and,

**3) The Assistant Director for Housing & Environment be authorised to publish the Animal and Beauty Treatment Licensing fees in accordance with the relevant legislative provisions.**

#### **REASON(S) FOR THE RECOMMENDATION(S)**

The Council has made provision in its Constitution (at part 3.20) for the setting of fees for licences falling within the remit of this Committee to be determined by it.

The statutory principle in relation to the setting of fees is that they should be reasonable and should relate to the costs of performing the function, including staffing, administration, testing, inspections, hearings, regulation and appeals. 3.2 The recommendation is in order to comply with the provisions of the European Services Directive (2006/123/EC) which was incorporated into UK law by the Provision of Services Regulations 2009. The legal requirements were considered by the Supreme Court in the case of R (on the application of Hemming and others) v Westminster City Council [2015] UKSC 25 and [2017] UKSC 50.

#### **ALTERNATIVE OPTIONS CONSIDERED**

Where a discretion exists in relation to fees and charges for licences, etc. consideration has been given to not increasing the fees payable. However, the costs associated with providing the service have increased over the past year and it is necessary for the service to be, so far as possible, cost neutral and increase fees in line with inflation and therefore a 15% is proposed for 2023/24. That is to say that all relevant costs are recovered from the income derived from the fees and charges for each distinct area of licensing.

If there is no increase in fees there is a risk that the Council will not recover all of the costs for services or activities for which it is permitted to charge and increase the burden on the Council's general fund.

### **PART 2 – IMPLICATIONS OF THE DECISION**

#### **DELIVERING PRIORITIES**

It is intended that the revised fees and charges would support the following themes from the Council's Corporate Plan 2020-24:

- Delivering High Quality Services: Effective regulation and enforcement
- Community Leadership through partnerships: Law and Order - for a safer community
- Strong Finances and Governance: Effective and positive Governance.

#### **LEGAL REQUIREMENTS (including legislation & constitutional powers)**

The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 (as amended) determine in Regulation 2, which functions are not to be the responsibility of the executive, as set out in column 1 of Schedule 1 of the Regulations. For the purposes of this report, animal licensing and beauty treatment licences are contained within column 1 and

therefore sit within the terms of reference of the Licensing and Registration Committee as set out in Part 3.21 of the Council's Constitution. Any fees set in accordance with the licensing regime under this legislation are to be approved by the Committee.

<b>Licence Type</b>	<b>Charging Power</b>
Animal Licensing	The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 Regulation 13,1&2 European Services Directive (2006/123/EC) Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 Paragraph 19 of the Local Government (Miscellaneous Provisions) Act 1982
Beauty Licenses for Acupuncture, Tattooing, Ear Piercing and Electrolysis	Schedule 3 Paragraph 19 of the Local Government (Miscellaneous Provisions) Act 1982

The animal licensing service operates in accordance with the *Animal Activity Licensing Process: Statutory Guidance for Local Authorities* that was most recently updated on 17 January 2023. The guidance provides a framework for fee setting and process for the granting, inspection and renewal, etc. of licences.

An Officer decision was made and published, in consultation with the Environment Portfolio Holder for the Environmental Health Service for the 2022/23 fees, however it has recently become apparent that this Schedule of Fees and charges included some non-executive functions. Therefore, the Committee is asked to endorse and approve those fees for the current year. Prior to the current year fees and charges were either set by Full Council as part of the budget setting process or by officers in consultation with the Portfolio Holder.

#### **FINANCE AND OTHER RESOURCE IMPLICATIONS**

Where possible, the Environmental Health service aims to recover all reasonable costs. In a number of areas, statute dictates whether a fee may or may not be charged and the level of any charge.

The Environmental Health service and their Lead Finance Partner carefully monitor licensing fee income through the financial year. If at any time, it was considered there would be a short fall between income and expenditure the fees could be reconsidered and increased, subject to notice and consultation, implemented at any time (including mid-year).

Over the course of the next six months the service proposes to undertake a full review of all licensing fees and charges, reviewing the amount of officer time taken to process each type of licence. It may be that in light of this exercise some fees are increased.

Licence fee income received by the Environmental Health Service is as follows:

2022/23

Income to date: £11,146.11

Expenditure to date: £142,430.00

2023/24

Est Income: £13,196.11  
Est Expenditure: £124,650.00

#### **USE OF RESOURCES AND VALUE FOR MONEY**

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;

B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and

It is important that fees are set by the correct decision making arm of the Council. Discussions between the Assistant Director for Housing and Environmental and Governance have recently taken place to ensure the service is fully aware of these requirements. The Monitoring Officer is satisfied that suitable assurances have been given and improvements identified.

C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.

#### **MILESTONES AND DELIVERY**

The report sets out the proposed fees and charges currently being charged and those to be set from April 2023 and invites the Committee to consider approving them.

#### **ASSOCIATED RISKS AND MITIGATION**

If the Committee determined that no increases in fees are appropriate, this could place a financial burden on licensing budgets that may require support from the General Fund. This in turn may mean that other Teams or Services see their budgets reduced.

#### **OUTCOME OF CONSULTATION AND ENGAGEMENT**

The following Council Units or Officers and/or other organisations have been consulted in preparing this report:  
Assistant Director (Governance)  
Assistant Director (Finance & IT)

#### **EQUALITIES**

There are no direct equality implications. The fees are calculated on a cost recovery basis and will not disproportionately affect those with a protected characteristic.

An Equality Impact Assessment has therefore not been completed as part of this process.

#### **SOCIAL VALUE CONSIDERATIONS**

Not Applicable

<b>IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030</b>	
There are no direct implications for climate change. The Environmental Health service does when appropriate make use of remote digital inspection technology to reduce officer travel and associated carbon emissions.	
<b>OTHER RELEVANT IMPLICATIONS</b>	
<b>Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.</b>	
<b>Crime and Disorder</b>	There are no direct implications for crime and disorder.
<b>Health Inequalities</b>	There are no direct implications for public health although some of the licences these fees relate to are aimed at ensuring public safety.
<b>Area or Ward affected</b>	All
<b>ANY OTHER RELEVANT INFORMATION</b>	
None	

### **PART 3 – SUPPORTING INFORMATION**

<b>BACKGROUND</b>
<p>The Licensing Authority may charge a fee for the issuing or renewal of various licences for which they have a statutory duty to issue. Certain fees are set either by Statute or Regulations, but some fees can be set by Local Authorities to cover the cost of administration, compliance, and some elements of enforcement; Locally Set Fees. The Council is not able to make a profit from licensing fees and cannot support the General Fund from licensing fees.</p> <p>Where possible, the Environmental Health service aims to recover operating costs and where the Council has the discretion to set the fees, they are subject to review which can take into account operating costs, inflation, and purchase costs etc.</p> <p>In proposing the fees for 2023/24 we have been mindful of the current cost of living increases, the continued effect of the economy post pandemic on the licensed trade, and the increases in costs to the Council caused by current inflation rates.</p> <p>The Essex Environmental Health Managers Group annually runs a bench marking exercise on fees and charges and the service always has due regard to this matrix when setting fees.</p> <p>The basis in setting such fees is generally to ensure full cost recovery, or as close to it as possible. Numerous legal cases over the years have confirmed that licensing fees may not be used to generate a profit for councils, and that fees should be reviewed annually to ensure that neither a significant surplus nor deficit is created. Surpluses or deficits may be carried forward to future years to be redistributed (within the ring fenced licensing budget), or</p>

recouped, as applicable.

Many licensing schemes fall within the definition of 'services', under the EU Services Directive, as incorporated by the Provision of Services Regulations 2009. For such schemes, fees and charges must "be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities". This principle was affirmed by the courts in R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council. Fees must reflect administrative, policy and compliance costs, but cannot include the costs of enforcement action against unlicensed operators.

Details of the proposed fee structure is attached at Appendix A.

As mentioned in the Finance section above, the service will undertake a full review of both the Animal and Beauty Treatment Licencing fees over the next six months and will explore the development of a written policy on the licensing of these activities. It is therefore proposed that a further report be presented to this committee once this work is complete.

#### **PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.**

None

#### **BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL**

- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
- European Services Directive (2006/123/EC)
- Local Government (Miscellaneous Provisions) Act 1982

#### **APPENDICES**

Appendix A – List of current fees and the proposed increases

#### **REPORT CONTACT OFFICER(S)**

*Include here the Name, Job Title and Email/Telephone details of the person(s) who wrote the report and who can answer questions on the content.*

<b>Name</b>	<b>Carol Archibald Tim R Clarke</b>
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## Appendix A

	A	B
<b>VAT is not applicable</b>		
	<b>2022/23</b>	<b>2023/24</b>
	£	£
<b>LICENSING AND REGISTRATION</b>		
Annual Fees:		
Hiring out Horses - Licence Application Fee	170.00	196.00
Hiring out Horses - Grant Fee	85.00	98.00
Dangerous Wild Animals	255.00	293.00
Boarding Kennels - Licence Application Fee	144.00	166.00
Boarding Kennels - Grant Fee	70.00	81.00
Selling Animals as Pets - Licence Application Fee	144.00	166.00
Selling Animals as Pets - Grant Fee	70.00	81.00
Home Boarding of Dogs - Licence Application Fee	115.00	132.00
Home Boarding of Dogs - Grant Fee	58.50	67.00
Dog Breeding - Licence Application Fee	144.00	166.00
Dog Breeding - Grant Fee	70.00	81.00
Zoos	561.00	645.00
Keeping Animals for Exhibition - Licence Application Fee	144.00	166.00
Keeping Animals for Exhibition - Grant Fee	70.00	81.00
Cat Boarding Establishments - Licence Application Fee	144.00	166.00
Cat Boarding Establishments - Grant Fee	70.00	81.00
Combined Cat and Dog Boarding - Licence Application Fee	200.00	230.00
Combined Cat and Dog Boarding - Grant Fee	101.00	116.00
Dog Day Care - Licence Application Fee	144.00	166.00
Dog Day Care - Grant Fee	70.00	81.00
Home Boarding Arranger Service - Licence Application	115.00	132.00
Home Boarding Arranger Service - Grant Fee	58.50	67.00
Home Boarding Arranger - Licence Application Fee per <b>host</b>	45.00	52.00
Home Boarding Arranger - Grant Fee per <b>host</b>	25.00	29.00
<b>Additional Licensable Activity Licence Application Fee</b>	96.00	110.00
<b>Additional Licensable Activity Grant Fee</b>	47.00	54.00
Variation to Licence / Re-evaluation of Risk Score	95.00	109.00
Inspection appeal of a risk rating score	120.00	138.00
Transfer Due to Death	75.00	86.00
Acupuncturist	138.00	159.00
Tattooist / Skin Piercing	194.00	223.00
Electrolysis	138.00	159.00
Ear Piercing	138.00	159.00
Amendment to Acupuncturist, Tattooist, Skin	97.00	112.00
Piercing, Electrolysis or Ear Piercing Licence		
The following conditions apply:		

b)New Dog Breeding establishments are inspected by a vet			
c)All other establishments inspected by a vet where necessary.			