

LICENSING AND REGISTRATION COMMITTEE

31 JANUARY 2024

REPORT OF THE DEPUTY CHIEF EXECUTIVE

A.3 Proposed Licensing Fees and Charges for 2024/25 (Report prepared by Michael Cook and Keith Simmons)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To seek the Committee's approval to a schedule of fees and charges 2024/25 for licensing applications etc within the responsibility of the Democratic Services and Elections, Governance – Licensing Section. The current fees and charges and proposals for fees and charges in 2024/25 are set out at Appendix A to this report. Appendix A sets out those licensing fees where the Council has discretion over the level of fee, those where the Council must charge a nationally prescribed fee and those where the chargeable fee is subject to a nationally prescribed maximum.

EXECUTIVE SUMMARY

- This report sets out the proposed fees and charges for 2024/25 for licensing applications etc within the responsibility of the Democratic Services and Elections, Governance – Licensing Section. These are within Appendix A to this report.
- Any amendments to income budgets that are required to reflect changes to fees and charges will be included in the detailed budget proposals for 2024/25 that will be considered by Cabinet/Council.
- The Council needs to demonstrate that the fees it charges for such licences have been set in accordance with the law and best practice, so as to recover its allowable costs in administering the various licensing regimes for which it is responsible.
- Fees should be set so as to avoid either a surplus or a subsidy where possible and adjusted, if necessary, in succeeding years to achieve and maintain the correct balance.
- This report sets out the revised fees and charges for licences and associated items, which it is proposed should take effect from April 2024.

RECOMMENDATION(S)

It is recommended that:

- 1) the proposed licensing fees and charges set out in Appendix A be approved with effect from April 2024 (Note: this recommendation only applies to those fees and charges where the Council has the discretion to determine the said fee);
- 2) the Licensing Manager be authorised to publish the Hackney Carriage and Private Hire Licensing fees in accordance with the relevant legislative provisions; and

3) that, further to 2) above, the Head of Democratic Services and Elections, be authorised to consider any objections received and determine the final fees payable in consultation with the Chairman of this Committee.

REASON(S) FOR THE RECOMMENDATION(S)

To enable the implementation of a revised fees and charges schedule for 2024/25. The Council has made provision in its constitution for the setting of fees for Licences falling within the remit of this Committee to be determined by it.

ALTERNATIVE OPTIONS CONSIDERED

As alternative options, where discretion exists for the Council, consideration has been given to setting fees and charges that did not recover the Council's costs in administering the relevant licensing functions. These were discounted as to do so would either leave Council Tax payers to meet costs of licensing that legally may be recovered or otherwise lead to a surplus and this would have meant that that the Council was acting contrary to law.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The forecasting and budget setting process, including fees and charges, will have direct implications for the Council's ability to deliver on its objectives and priorities. At its heart, the 10-year approach to the forecast seeks to establish a sound and sustainable budget year on year through maximising income, including income raised from fees and charges, whilst limiting reductions in services provided to residents, businesses and visitors.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The following Council Units or Officers and/or other organisations have been consulted in preparing this report: Management Team

Depending on Members decision, in respect of certain fees, there is a requirement to publicise any proposed increases in Hackney Carriage/Private Hire Vehicle/Operator license fees, in a local newspaper. This allows a period for objections to be made. How this consultation takes places is set down within legislation.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Is the recommendation a Key Decision (see the criteria stated here)	No	If Yes, indicate which by which criteria it is a Key Decision	<input type="checkbox"/> Significant effect on two or more wards <input type="checkbox"/> Involves £100,000 expenditure/income <input type="checkbox"/> Is otherwise significant for the service budget
		And when was the proposed decision published in the Notice of forthcoming decisions for the	Not applicable

Council (must be 28 days at the latest prior to the meeting date)

The arrangements for setting and agreeing a budget and for the setting and collection of council tax are defined in the Local Government Finance Act 1992. The previous legislation defining the arrangements for charging, collecting and pooling of Business Rates was contained within the Local Government Finance Act 1988. These have both been amended as appropriate to reflect the introduction of the Local Government Finance Act 2012.

Trading and the power to charge are set out in the Local Authorities (Goods and Services) Act 1970 and the Local Government Act 2003 – Section 93 respectively. The latter also requires that charges for discretionary services should be on a cost recovery basis.

The express legislative powers in respect of the various district areas of licensing are set out below:

Licence Type	Charging Power
Scrap Metal Dealers	Paragraph 6 of Schedule 1 to the Scrap Metal Dealers Act 2013
Pleasure Boats and Boatmen	Section 94 of the Public Health Acts Amendment Act 1907
Pet Shop Licences	Section 1(2) of the Pet Animals Act 1951
Private Hire and Hackney Carriage Drivers' Licences	Section 53(2) of Part II to the Local Government (Miscellaneous Provisions) Act 1976
Private Hire and Hackney Carriage Vehicles and Private Hire Operators' Licences	Section 70(1) of Part II to the Local Government (Miscellaneous Provisions) Act 1976
Sex Establishment (Sex Shops and Sexual Entertainment Venues) Licences	Paragraph 19 of Schedule 3 to Part II of the Local Government (Miscellaneous Provisions) Act 1982
Street Trading Consents	Paragraphs 9(1) and 9(5) of Schedule 4 to Part III of the Local Government (Miscellaneous Provisions) Act 1982
Authorisations under the Licensing Act 2003	Various Sections of the Licensing Act 2003 and Regulations under the Licensing Act 2003 (Fees) Regulations 2005
Authorisations under the Gambling Act 2005	Various Sections of the Gambling Act 2005 and Regulations under the Gambling (Premises Licence Fees)(England and Wales) Regulations 2007

There is no power to charge for Street Collection and House to House Collection Permits. In respect of authorisations under the Licensing Act 2003, the fees and charges are set nationally by central Government. Fees and charges in respect of authorisations under the Gambling Act 2005 are subject to a maximum rate prescribed by central Government. The Council may set fees for such authorisations, having had regard to its costs, up to the prescribed maximums.

The legislative provisions set out in the above table have been considered in the preparation of this report. Where discretion exists for licensing authorities to set the fee to be charged, they must have regard to the decision in R v Manchester City Council, ex Parte King. By virtue of that case, it would not be lawful to seek any more than to recover the costs of administering the particular licensing function and be used for generating income. More recently, the Supreme Court determined the case of R (on the application of Hemming (t/a Simply Pleasure Ltd) and others) v Westminster City Council 2015 where the restrictions on licensing authorities to charge fees related to licensing functions was updated in respect of charging for the procedural formalities of a licensing application.

Certain licensing activities are subject to fees/charges set nationally. Other activities are subject to maximum fee levels with a discretion for the Authority up to that maximum. A third set of licensing activities are not subject to a nationally set maximum and the discretion is for the licensing authority. The final set of licensing activities provided for no charges to be made by the Council. In considering the Council's discretion on licensing fees there is a long, established principle that the charging power is not a revenue raising power. As such, charges should stand not seek to recover more than the administrative costs of the Authority relevant to the licensing activities.

The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:

The comments of the Monitoring Officer have been reflected in the report as it has been prepared.

FINANCE AND OTHER RESOURCE IMPLICATIONS

Finance and other resources

Where the Council has a discretion over fees and charges, these have been reviewed against the key principles that underpin the long-term forecast. Fees should be set so as to avoid either a surplus or a subsidiary where possible and adjusted, if necessary, in succeeding years to achieve and maintain the correct balance.

Given the significant on-going financial challenges faced by the Council from 2024/25, a key underlying principle is to consider inflationary increases wherever possible to support corresponding increases in the Council's own costs in delivering the associated service(s). The current rate of inflation remains relatively high and it may not necessarily be practical / possible to 'translate' such an increase into the actual fee increase proposed. Therefore, set against this inflationary context, any proposed increases in fees and charges must be balanced against other considerations / market conditions, whilst also recognising the restrictions placed on local authorities in terms of setting fees and charges as set out within the legal section above. Further details relating to any proposed increases to fees and charges is set out below.

The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:

Beyond the general content of this report there are no further comments to be set out here.

USE OF RESOURCES AND VALUE FOR MONEY	
The following are submitted in respect of the indicated use of resources and value for money indicators:	
A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services.	The monitoring of reserves deployed to licensing activities is a critical function to setting fees to recover those costs and ensure licencing is sustainable where a discretion exists.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks.	This report sets out that the Council will be supported in decision making on fees and charges for licensing.
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.	The approach to licensing fee setting seeks to ensure it is efficient and economical.
MILESTONES AND DELIVERY	
The report sets out the proposed fees and charges to be charged from April 2024 (or as soon as is practicable thereafter) and invites the Committee to consider approving these as set out in Appendix A. Several fees and charges are set by Government nationally and therefore the Council has no discretion to alter those fees.	
ASSOCIATED RISKS AND MITIGATION	
The risk in setting any fee and charge is that it does not provide, due to change in usage, for the projected income. Apart from the comments in Legal Implications that it would be unlawful if certain fees were increased by more than the cost of administering the function and be used for generating income, a significant increase in charges may in any event discourage the public from using a service resulting in an overall reduction in income. The income received by the Council is regularly monitored and any significant variation would be reported to the Cabinet/Portfolio Holder.	
EQUALITY IMPLICATIONS	
In preparing this report, due consideration has been given to the Borough Council's statutory Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.	
No direct equality implications have been identified and, accordingly, an Equality Impact Assessment has not been completed as part of this process.	
SOCIAL VALUE CONSIDERATIONS	
Well-regulated activities should of themselves contribute to the overall economic, social and environmental wellbeing of the District. The fees proposed seek to support an efficient licensing function to support well regulated licensed activities accounted in the District.	
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030	
There are no direct implications for climate change, arising from the recommendations as set out in this report.	
OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS	
Consideration has been given to the implications of the proposed decision in respect of	

the following and any significant issues are set out below.	
Crime and Disorder	There are no direct implications for crime and disorder, arising from the proposals set out in this report.
Health Inequalities	There are no direct implications for public health, arising from the proposals in this report.
Area or Ward affected	All

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Income from fees and charges form an important element of the budget and the financial sustainability of the Council as set out in the long-term forecast.

Similarly to previous years, Departments have been asked to review their fees and charges on an individual basis as changes may need to be made to meet specific aims or strategic objectives or in some cases in response to external factors.

Where the Council has a discretion over fees, the review of those fees and charges has been set against the following key principles:

- general inflationary increases where possible or lower where appropriate / justified
- amounts rounded for ease of application, which may result in a slightly above inflation increase.
- on a cost recovery basis as necessary
- reflect statutory requirements.
- to meet specific priorities or service delivery aims / objectives

The Council continues to face a number of significant financial challenges in 2024/25 and beyond. It is therefore important that fees and charges are considered against this context to balance the various issues highlighted above.

Income budgets included in the detailed estimates will reflect any required changes from the proposed fees and charges set out in this report.

The costs referred to in this report that may be recovered through licence fees include:

- Administration –basic office administration to process the licence application, including photocopying, postage or the cost of handling fees through the accounts department. This could also include the costs of specialist licensing software to maintain an effective database, and printing licences.
- Initial visit/s – The officer time of premises visits as part of the authorisation process; including travel time and ‘on costs’.
- Third party costs – Some licensing processes will require third party input from experts, such as qualified vehicle testing engineers
- Liaison with interested parties – Engaging with responsible authorities and other stakeholders both in time and resources.
- Management costs – to reflect the cost of reviewing applications etc by the Head of Service.

- Local democracy costs – The necessary expenditure in arranging committee meetings or hearings to consider applications, review existing licences or respond to problems..
- On costs – including recharges for payroll, accommodation, including heating and lighting, and supplies and services connected with the licensing functions.
- Development, determination and production of licensing policies – The cost of consultation and publishing policies.
- Web material – The cost for this work.
- Advice and guidance – This includes advice in person, production of leaflets or promotional tools, and online advice.
- Setting and reviewing fees – This includes the cost of time associated with the review, as well as the cost of taking it to this Committee for approval.
- Additional monitoring and inspection visits – The cost of visits to premises in between licensing inspections and responding to complaints.
- Registers and national reporting – where relevant, the cost of producing registers and providing submissions to central government etc.

The charge for Enhanced Disclosure & Barring Service Checks (DBS) is determined by the Disclosure & Barring Service is set by the current provider.

The Committee is advised that the Cabinet (on 26 January 2024) is considering the recommended reduced income of £25,000 in the current year and 24/25 (onwards) in view of the comparative cost of undertaking taxi / private hire tests in house and (as now) through an external provider.

An assessment of the costs of the administration of the various Licences for which this Committee is responsible has been undertaken using staff time data related to 2022/23.

PROPOSED FEES AND CHARGES 2024/25

Set against the current fees and charges for 2023/24, **Appendix A** includes the schedule of fees and charges proposed for 2024/25, which have been developed by applying the key principles highlighted above and, amongst other matters, the new Hackney Carriage and Private Hire Licensing Policy.

Where the Council has discretion over fees, it will seek to recover the costs associated with processing applications for licences as well as the administration and monitoring of compliance with conditions. The fees charged should be capable of withstanding legal challenge, should the need arise.

It is not permitted to make a surplus, nor to subsidise, and so where such situations have arisen, fees and charges are adjusted in succeeding years to achieve and maintain the correct balance.

Decisions regarding the Licensing Fees and Charges are for the Licensing and Registration Committee to consider and determine.

PREVIOUS RELEVANT DECISIONS

The fee schedule for 2023/24 was determined by the Licensing and Registration Committee on 8 March 2023 – Minute 141 refers.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

No background papers were used in the preparation of this report

APPENDICES**Appendix A – Detailed fees and charges 2024/25 for Democratic Services and Elections, Licensing Section.****REPORT CONTACT OFFICER(S)**

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