

*PART A

Report to: Licensing Committee
Date of meeting: 12 January 2015
Report of: Head of Community and Customer Services
Title: Licensing fees and charges 2015/2016

1.0 **SUMMARY**

1.1 This report seeks the Licensing Committee's approval to charge fees for the 2015/2016 financial year for some of the different licensing regimes administered by the Council. Setting licensing fees are generally a Council rather than an Executive function under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000¹ (as amended).

2.0 **RECOMMENDATIONS**

2.1 That the fees and charges set out at appendix 1 for the financial year 2015/2016 be approved.

2.2 To delegate to the Environmental Health and Licensing Section Head the authority to increase or decrease charges in respect of provision of:

- compulsory door signage for hackney carriages
- Disclosure and Barring Service, and Driver and Vehicle Licensing Agency, checks
- licence badges and plates.

Contact Officer:

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Report approved by: Alan Gough, Head of Community and Customer Services

¹ SI 2000/2853

3.0 **BACKGROUND**

3.1 The Council is responsible for administering a number of statutory and discretionary licensing regimes, including the Licensing Act 2003, Gambling Act 2005, hackney carriages and private hire vehicles, street trading, pavement cafes, sex establishments and leaflet distribution.

3.2 Some general principles apply to the setting of licence fees:

- they cannot be used to generate a profit, and any surplus should be identified and carried over to the following year
- it is acceptable to carry forward deficits from previous years
- income from licence fees may only be spent on the specific regime from which they were generated
- fees may not be discriminatory or to be used as an economic deterrent.

3.3 The Supreme Court is expected to announce its decision within the next few months in the case of *Hemming and Others v Westminster City Council*². This is expected to confirm, amongst other matters, whether councils can use receipts from licensing fees to pay for the cost of enforcement activities against unlicensed operators, or whether such activities must be funded from general funds. The Council considers the fees and charges structure meets the current legal position. Should this be changed by the Supreme Court decision a further report will be brought to Committee.

3.4 Licence fees are therefore set on a cost-recovery basis and subject to the following restrictions:

- Licensing Act 2003 – centrally-set out in regulations by Parliament
- Gambling Act 2005 – decided by the Council subject to statutory maxima
- hackney carriage and private hire vehicle licensing - reasonable charges may be made for the cost of administering and enforcing the regime, and providing taxi ranks
- street trading fees – reasonable charges may be made for the cost of administering and enforcing the regime in relation to licensed traders
- pavement licence fees – reasonable charges may be made for the cost of administering the regime
- sex establishment fees – reasonable charges may be made for the cost of administering the regime and enforcing it in relation to licensed traders
- leaflet distribution – reasonable charges may be made for the cost of administering the regime and enforcing it in relation to licensed traders

² [2013] EWCA Civ 591

- 3.5 Changes to fees for vehicle licences and private hire vehicle operator licences must be publicly advertised and any objections considered.
- 3.6 The Cabinet will consider the budgetary implications of licensing income and expenditure as part of the overall Council budget cycle. However, the Licensing Committee is required to formally approve the level of licence fees and charges as licensing (other than Gambling Act fees) are generally a Council rather than an Executive function under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000³ (as amended).
- 3.7 **Proposals**
The proposed schedule of fees and charges is set out at appendix 1. There are no proposed changes other than:
- a reduction of 50% to £109 for the licence fee for vehicles with an electric engine
 - an increase in cost for the door signs for Hackney carriages that reflects the current cost to the Council from £10.50 to £19.50
- 3.8 Members may be aware that the council is currently working in partnership with Electric Blue, a company based in St Albans and which is working with other local councils to encourage greater use of electric vehicles as hackney carriages. Whilst the cost of administering a licence is the same regardless of the type of engine, it is arguable that an incentive will help encourage licence-holders to switch to electric vehicles when the discount is added to other incentives such as the reduction in Vehicle Road Fund Duty, exemption from the London Congestion Charge, lower running costs and grants available to purchase the vehicle. This supports the Council's objectives to improve air quality in the borough and promote sustainability and it is not envisaged that take up will be such to have any significant impact on the income profiles this year. This will be kept under review.
- 3.9 The Licensing Committee is also asked to approve that officers can immediately change the charges that arise in respect of materials or external charges for:
- compulsory door signage for hackney carriages
 - Disclosure and Barring Service, and Driver and Vehicle Licensing Agency, checks
 - licence badges and plates.
- 3.10 This flexibility is requested so that officers can, where necessary, change contractors or service providers or to respond to changes in pricing and pass those costs or savings on to licence-holders without requiring further Committee approval.
- 3.11 For the sake of clarity, it is not proposed to increase or amend any other licence fee or charge other than those mentioned above.

³ SI 2000/2853

4.0 IMPLICATIONS

4.1 Financial

4.1.1 The Shared Director of Finance comments that that there are no additional financial implications arising from this report other than those identified above. Cabinet will consider the budgetary implications of licensing income and expenditure as part of the overall Council budget cycle.

4.2 Legal Issues (Monitoring Officer)

4.2.1 The Head of Democracy and Governance comments that there are no additional legal implications arising from this report other than those identified above.

4.3 Potential Risks

Potential Risk	Likelihood	Impact	Overall score
<i>Level of fees challenged by District Auditor</i>	1	2	2
<i>Level of fees challenged by judicial review</i>	1	3	3

Appendices

Appendix 1: Licensing Fees and Charges 2015 – 16

Background Papers

No papers were used in the preparation of this report

File Reference

Licence fees and charges 2015 – 2016