

## Part A

**Report to:** Licensing Committee

**Date of meeting:** Wednesday, 15 January 2020

**Report author:** Environmental Health Manager (Business)

**Title:** Licensing Fees and Charges 2020-2021

### 1.0 Summary

1.1 This report seeks the Licensing Committee's approval to charge fees for the 2020/2021 financial year for some of the different licensing regimes administered by the Council. Setting licensing fees is generally a Council rather than an Executive function under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

### 2.0 Risks

#### 2.1

| <b>Nature of risk</b>                               | <b>Consequence</b>                             | <b>Suggested Control Measures</b>   | <b>Response</b><br>(treat, tolerate, terminate or transfer) | <b>Risk Rating</b><br>(combination of severity and likelihood) |
|---|--|-------------------------------------|---|--|
| <i>Level of fees challenged by District Auditor</i> | May have to justify cost recovery calculations | Maintain cost recovery calculations | Treat   | 2  |
| <i>Level of fees challenged by judicial review</i>  | May have to justify cost recovery calculations | Maintain cost recovery calculations | Treat   | 3  |

### 3.0 Recommendations

3.1 That the fees and charges set out at appendix 1 pages 1 and 2 for the financial year 2020/2021 be approved and that the fees and charges in appendix 1 page 3 and 4 be recommended to Council for approval.

3.2 To delegate to the Head of Community Protection, in consultation with the Chair of Licensing, the authority to increase or decrease charges in respect of the provision of:

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

For the reasons outlined in sections 4.9 and 4.10.

**Further information:**

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**Report approved by:** Justine Hoy, Head of Community Protection

**4.0 Detailed proposal**

4.1 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.

4.2 Whilst some of these licensing fees are set by the Licensing Committee, rather than by Council, they are being considered at this particular meeting to coincide with the overall budget setting of the organisation. Other fees are set by the Council so if agreed here will be recommended to Council for approval in the budget papers.

4.3 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

4.4 When not prescribed by statute, licence fees are set on a cost-recovery basis. Below are details of the statute and restrictions that apply:

- 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.
- Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 – cost recovery fee calculation regime set out in government guidance

4.5 The proposed schedule of fees and charges is set out in Appendix 1.

4.6 Where fees are calculated on a cost recovery basis, the proposed fees have been raised by 3% to reflect the increased cost of delivering these services.

4.7 There is one exception to this approach; taxi and private hire driver and vehicle licences, and private hire operator licences, where the ongoing introduction of operational efficiencies has allowed us to offset these increased costs since 2017.

4.8 Members should also be aware that we are obliged to consult current driver and vehicle licence holders on any changes to these licences. As we are not proposing to change the fees for these licences no consultation has been carried out.

4.9 Animal welfare licensing

Members should note that the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 came into force on 1<sup>st</sup> October 2018. This required the following types of activity to be licensed:

- Selling animals as pets.
- Providing or arranging for the provision of boarding for cats or dogs.

- Providing boarding for cats.
- Providing boarding in kennels for dogs.
- Providing home boarding for dogs.
- Providing day care for dogs.
- Hiring out horses
- Breeding dogs.
- Exhibiting animals.

- 4.10 The introduction of the legislation necessitated a detailed fee calculation in line with government guidance to ensure accurate cost recovery. As detailed in last year's fees and charges report, this resulted in increased fees of between 3 and 9% for businesses in a commercial setting, and between 17 and 88% for businesses in domestic setting.
- 4.11 These fees have not been challenged, the processes remain the same and there has not been a significant change in the number of licences issued under this legislation as a result of the change in fees; prior to the new regime we had five day care & home boarders, one pet shop and one cattery. Only 1 home boarder chose not to renew their licence under the new scheme, because they decided to stop offering home boarding, rather than because of the change in fees. Two new applications for home boarders have been received since the change in regime so we now have six care and home boarders, one cattery and one pet shop. In line with other licences these fees are now proposed for an increase in line with inflation only.
- 4.12 The Licensing Committee is also asked to approve that the Head of Community Protection can immediately change, in consultation with the Chair of Licensing Committee, the charges that arise in respect of the cost to the Council of materials/external fees for:
- Compulsory door signage for hackney carriages.
  - Disclosure and Barring Service, and practical driver assessments.
  - Licence badges and plates.
- 4.13 This flexibility is requested so that officers can, where necessary, change contractors or service providers or respond to changes in pricing and pass those costs or savings on to licence-holders without requiring further Committee approval.
- 4.14 For the sake of clarity, it is not proposed to increase or amend any other licence fee or charge other than those mentioned above.
- 4.15 A detailed review of all licensing fees will be carried out when procedural changes driven by the Watford 2020 programme are fully implemented.

## 5.0 **Implications**

### 5.1 **Financial**

5.1.1 The Shared Director of Finance comments that the financial implications will be built into the Medium Term Financial Strategy.

### 5.2 **Legal Issues** (Monitoring Officer)

5.2.1 The Head of Democracy and Governance comments that the legal implications are contained within the body of the report

### 5.3 **Equalities, Human Rights and Data Protection**

5.3.1 Under s149 (1) of the Equality Act the council must have due regard, in the exercise of its functions, to the need to –

- eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act,
- advance equality of opportunity between persons who share relevant protected characteristics and persons who do not share them,
- foster good relations between persons who share relevant protected characteristics and persons who do not share them.

5.3.2 Having had regard to the council's obligations under s149, it is considered that there are no human rights or equalities implications associated with the proposed fees and charges as they will apply equally to everyone regardless of any protected characteristic.

5.3.3 Having had regard to the council's obligations under the General Data Protection Regulation (GDPR) 2018, it is considered that officers are not required to undertake a Data Processing Impact Assessment (DPIA) for this report.

### 5.4 **Staffing**

5.4.1 There are no staffing implications associated with this report.

### 5.5 **Accommodation**

5.5.1 There are no accommodation implications associated with this report.

### 5.6 **Community Safety/Crime and Disorder**

5.6.1 There are no community safety or crime and disorder implications associated with this report.

## 5.7 **Sustainability**

5.7.1 There are no sustainability implications associated with this report.

## **Appendices**

### **Appendix 1: Licensing Fees and Charges 2020-2021.**

#### **Background papers**

No papers were used in the preparation of this report.