

Part A

**Report to:** Licensing Committee

**Date of meeting:** Thursday, 12 January 2023

**Report author:** Senior Licensing Officer (AY)

**Title:** Licensing Fees & Charges 2023-2024

1.0 **Summary**

1.1 This report seeks the Licensing Committee's approval to charge fees for the 2023/2024 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> (treat, tolerate, terminate or transfer)	<b>Risk Rating</b> (combination of severity and likelihood)
Level of fees challenged by district auditor	May have to justify cost recovery calculations	Maintain cost recovery calculations	Treat	Medium
Level of fees challenged by judicial review	May have to justify cost recovery calculations	Maintain cost recovery calculations	Treat	High
Failure to consult on proposed taxi licensing fees	Risk of judicial review and possible overturning of fees, and undermining council's reputation	Ensure the proposed fees undergo the statutory consultation and consideration process as detailed in the report	Treat	Medium
Failure to consider representations received	Risk of judicial review and possible overturning of fees, and undermining	Ensure the proposed fees undergo the statutory consultation and	Treat	Medium

against taxi licensing fees	council's reputation	consideration process as detailed in the report, with the decision recorded and notified appropriately		
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### 3.0 Recommendations

- 3.1 That the fees and charges set out in pages 1 and 2 of appendix 1 for the financial year 2023/2024 be approved and that the fees and charges in pages 3 and 4 of appendix be recommended to Council for approval.
- 3.2 That authority is given to consider any objections arising from the statutory notices pertaining to these fees and the final determination of the fees relating to those objections, if any, be delegated to the Director of Partnerships in consultation with the Chair of Licensing Committee.
- 3.3 To delegate to the Associate Director of Housing & Wellbeing, in consultation with the Chair of Licensing Committee, the authority to increase or decrease charges in respect of the provision of:
- compulsory door signage for hackney carriages
  - Disclosure and Barring Service checks
  - licence badges and plates

For the reasons outlined in sections 4.15 and 4.16.

#### Further information:

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**Report approved by: Justine Hoy, Associate Director Housing and Wellbeing**

### 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, including recovering costs for unmet demand surveys, 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 distributors.
- Animal welfare and licensing – 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 approximately 6% to reflect the increased cost of delivering these

services. There are some exceptions to this approach which will be detailed later in this report.

- 4.7 The Council on the whole is under increased pressure from rising inflation and other pressures such as nationally agreed wage increases, energy price increases etc that are having an impact on the price of consumables and the cost of delivering services. Some licensing fees are statutory, but as detailed in section 4.4 above most other licensing functions are subject to operating under cost recovery in charging reasonable charges, and as such are not immune to the pressures of rising costs. In order to ensure fees reflect costs for administering licences accurately a detailed review is undertaken every few years or sooner when significant changes in processing and requirements occur.
- 4.8 Officers have carried out a detailed review on the cost of administering the council's taxi and private hire functions this year, acknowledging that the processing and issuing of driver and vehicle licences has undergone significant change over the last three years and that fees have been the same since 2017. This review has respected the decision made by the Licensing Committee in January 2015 to subsidise half of the vehicle licence fee for wholly electric vehicles to incentivise licence-holders to switch to electric vehicles. This supports the Council's objectives to improve air quality in the borough and promote sustainability.
- 4.9 Some changes have been implemented through digitalisation and policy review, and others as a result of the Covid pandemic. As a result, changes to these proposed fees vary as detailed in appendix 1.
- 4.10 There are various factors which were considered by officers during the fee review. As a general consideration, the cost of consumables and general delivery of services was taken into account and formed the base of the fee review
- 4.11 It is our policy that drivers need to undertake a criminal records check every 6 months, which follows the Department for Transport's (DfT) Statutory Taxi & Private Hire Vehicle Standards. This requires officers' time and does fall under the cost of administering the service. From experience in implementing this policy, it is accepted that this time does need to be accounted for and recovered. Since the criminal records checks are only relevant to driver's licences, it is only appropriate that the cost for administering this policy be levied on driver licence fees.
- 4.12 It is also policy that there is a cap on hackney carriage vehicle numbers. It is legal to have a limit on vehicles, but this limit should be reviewed periodically. This is accepted as being good practice under the DfT's Best Practice Guidance. A limit on hackney carriage vehicles does prevent new hackney carriage vehicles being added to the licensed fleet, except where exceptions detailed in the policy are met. When the limit was originally set in 2012, it was set at 304 hackney carriage vehicle licences, which was the number of licences issued at the time, and this limit was to

be a descending limit. As of 12 December 2022, the limit is 214 hackney carriage vehicles. Due to the need to verify if the limit should be retained, to review the limit under best practice, and due to the change in numbers, it is essential that an unmet demand survey is conducted in 2023. Officers have obtained a quote to carry out an impartial survey. An unmet demand survey is only relevant to hackney carriage vehicles and can be recovered from the hackney carriage trade as a reasonable administrative or other cost for the purpose of enforcing, administration, control and supervision of hackney carriage vehicles, as allowed under s70 of the Local Government (Miscellaneous Provisions) Act 1976. Therefore, it has been necessary to differentiate the fees for private hire and hackney carriage vehicles to take into account the costs of this survey and to recover the costs from the appropriate section of the trade.

- 4.13 With regards to the unmet demand survey, it is proposed to recover the cost over the period of 3 years. The DfT Best Practice Guidance does suggest reviewing the limit every 3 years. It is preferable to recover the cost over a longer period of time, rather than a short period of time, to reduce the impact on vehicle licence proprietors. It is acceptable to carry across deficits and recover these costs over later years. It is also acknowledged that carrying the cost over more than 3 years could possibly intercept with the next review of the limit, increasing the impact on drivers in the future. Under the Regulators' Code, councils should seek to limit the burden of their activities on licence holders, and this can be achieved by spreading the cost over three years.
- 4.14 As a result of digitalisation and efficiencies, it is proposed that the fees for private hire vehicle licences and private hire operators are decreased. This is despite the pressures from rising costs and inflation, as this was the outcome of the detailed review into these fees by officers.
- 4.15 Members should be aware that we are obliged to consult current driver and vehicle licence holders on the proposed fees and charges that relate to them. The consultation period is at least 28 days. If any objections are received then these must be considered ahead of implementing the new fees, with or without modification, and the date on which the fees can come into force can either be only after each objection is withdrawn or within 2 months of the consultation period ending. It is therefore recommended that the consideration of such objections and the determination of the level of fees relating to those objections be considered by the Director of Partnerships in consultation with the Chair of Licensing Committee.
- 4.16 The Licensing Committee is also asked to approve that the Associate Director of Housing & Wellbeing, in consultation with the Chair of Licensing Committee, can immediately change 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 checks
- Licence badges and plates and related consumables

4.17 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.

4.18 For the sake of clarity, it is not proposed to increase or amend any other licence fee or charge other than those mentioned above at paragraph 4.16.

## **5.0 Implications**

### **5.1 Financial**

5.2 The Shared Director of Finance comments that the proposed fee changes reflect the increased costs incurred by the Council in providing these services and are consistent with the Council's charging policy.

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

5.4 The Group Head of Democracy and Governance comments that the legal implications are contained in the report.

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

5.6 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.

5.7 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.

## **Appendices**

## Appendix 1 – Proposed Licensing Fees & Charges 2023-2024

### **Background papers**

Department for Transport: Taxi and private hire vehicle licensing: best practice guidance (March 2010)

Local Government (Miscellaneous Provisions) Act 1976