

Licensing Committee

Date of Meeting:	09 January 2023
Report Title:	Review of Licensing Fees and Charges
Report of:	Jayne Traverse, Executive Director – Place
Ward(s) Affected:	All Wards

1. Purpose of Report

- 1.1. To seek Members' approval to increase the licensing fees and charges for the issuing and renewal of licenses, consents, and permits issued by the Licensing Team with effect from April 2023.

2. Executive Summary

- 2.1. The Licensing Team has reviewed the fees and charges payable for applications within our remit and is proposing a number of increases as set out within appendix 1.

3. Recommendations

- 3.1. That the Licensing Committee resolves to:
- 3.1.1. Confirm the fees payable as set out in appendix 1.
 - 3.1.2. Authorise the Licensing Team Leader to publish the Hackney Carriage and Private Hire Licensing fees in accordance with the relevant legislative provisions.
 - 3.1.3. That delegated authority be given to the Head of Regulatory Services to consider any objections received and determine the final fees payable in consultation with the Chairman of the Licensing Committee.

4. Reasons for Recommendations

- 4.1. The Council has made provision in its Constitution for the setting of these fees to be delegated to the Licensing Committee.

5. Other Options Considered

- 5.1. Consideration has been given to not increasing the fees payable. However, the costs associated with providing the service have increased and it is necessary for the service to be, so far as possible, cost neutral.
- 5.2. In proposing these increases we have considered whether or not it is appropriate to increase all licence fees or if some fees can be frozen. However, given the financial pressures on the Council a freeze or reduction in taxi licensing fees is not appropriate.

6. Background

- 6.1. 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.
- 6.2. Where possible, the Licensing Team 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.
- 6.3. The Local Government Miscellaneous Provisions Act 1976 (the Act) that allows a Council to set taxi licensing fees, states that the fee for vehicle and operator licences shall not exceed £25 or such other sum as the Council may from time to time determine. In the light of current costs £25 is not seen as a realistic fee to impose. The fee has not been set at this rate for a significant number of years.
- 6.4. In respect of vehicle and operators' licences the Act states that the Council may charge such fees as may be sufficient in the aggregate to cover in whole or in part:
- i. The reasonable cost of inspecting Hackney Carriages and Private Hire vehicles to ascertain whether any such licence should be granted or renewed.
 - ii. The reasonable cost of providing Hackney Carriage stands.
 - iii. Any reasonable administrative or other costs in connection with the above and with the control and supervision of Hackney Carriages and Private Hire vehicles.
- 6.5. In respect of drivers' licences the Act states that the Council may charge, "such a fee as it considers reasonable with a view to recovering the costs of

issue and administration associated with the grant of Hackney Carriage and Private Hire drivers' licences".

- 6.6.** In proposing the fees for 2023/2024 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.
- 6.7.** In 2021/2022 the Licensing Authority did not increase fees as we acknowledged the impact of Covid lockdowns were having on the licensed trade. It was possible to use some staff cost savings (saved due to maternity leave) to mitigate the cost of any increase in budgetary demands on the Team.
- 6.8.** In 2022/2023 the Licensing Authority increased all taxi licensing fees except the licence fee for the grant of driver licences. This was because we had seen a reduction in the number of drivers and it was hoped that freezing the fee would help those thinking of coming into the trade to make application. Since 01/04/2022 we have seen 22 new driver licenses granted. This compared with 8 in 2020/2021 and 17 in 2021/2022.
- 6.9.** A number of fees are fixed by Statute which are not referenced in this report. These relate to Licensing Act 2003 fees and Gambling Act 2005 fees (a maximum cap). It should be noted that the fees in respect of Licensing Act 2003 applications have not increased since 2005 and the fees for applications under the Gambling Act 2005 have not increased since 2007.
- 6.10.** There are also some licences issued for which the Council cannot set a fee such as Street Collection Permits and House to House Collection Licenses.
- 6.11.** The fees relating to street trading and sex establishments are also subject to the EU Service Directive (2006). This Directive, which has been incorporated in UK law by the Provision of Services Regulations 2009 and reaffirmed by the European Union (Withdrawal) 2018 Act confirms:

 - i. Fee charges must be proportionate to the cost of the process
 - ii. Fees cannot be used as either a deterrent or to raise funds
 - iii. Enforcement should not be included in the fees
- 6.12.** There are a number of cases in the Higher Courts that have set down the lawful approach to fees and fee setting. This includes the activities that can be included when calculating costs. The general principles include; the Licensing Authority cannot make a profit and must carry forward surplus, deficits can be recouped through increasing fees, only administration and issue costs can be taken into consideration, compliance with a licence or conditions etc. is compliance rather than enforcement, costs for one type of licence can be incorporated into the fees of another. In reviewing the fees, all case law has been taken into consideration.

6.13. It is envisaged, subject to consultation and the consideration of any objections, that the increase in fees would take effect on the 1st April 2023.

7. Consultation and Engagement

7.1. In respect of certain fees, there is a requirement to publicise any increases in a local newspaper. This allows a period for objections to be made. How this consultation takes place is set down within legislation.

8. Implications

8.1. Legal

8.1.1. The Recommendations in Section 3 of this Report are supportable should the Members wish to delegate some of its fee setting functions. This will be expeditious and retain committee oversight.

8.1.2. Sections 53 and 70 of the Local Government (Miscellaneous Provisions) Act 1976 allow the Licensing Authority to charge fees for the grant of licences in respect of hackney carriage and private hire drivers, vehicles, and operators. The fees must be set for these licences on the basis that it only recovers costs which it is entitled statutorily to recover.

8.1.3. The statutory power to levy a fee for licensable activities such as taxi driving does not give a local authority a free hand in relation to the scale of the fee that is going to be levied. Any increase upon the livelihood of those affected by it has to be taken into account as does the scale of the increase. Members should satisfy themselves that any proposed increase in fees is proportionate to the licensing function to which it pertains

8.1.4. Members should not approve an increase in licensing fees:

- i. For drivers of hackney carriages and private hire vehicles that are not reasonable to cover the cost of issue and administration.
- ii. For hackney carriage and private hire vehicles and Operators that are more than sufficient in aggregate to cover the costs in Paragraph 6.4.
- iii. For street traders and sexual entertainment venues that are not proportionate to the cost of the process, and which include enforcement in the fee.

8.1.5. Licensing fees which are neither reasonable nor proportionate are susceptible to challenge on public law grounds by way of judicial review.

8.2. Finance

8.2.1. Where possible, the Licensing Team 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.

8.2.2. The Licensing Team 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).

8.3. Policy

8.3.1. The fees proposed are compatible with our charging strategy

8.4. Equality

8.4.1. 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.

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

8.5. Human Resources

8.5.1. There are no human resource implications save to say that the cost recovery calculation will include increases in staffing costs.

8.6. Risk Management

8.6.1. 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.

8.7. Rural Communities

8.7.1. As the Licensing Authority we are aware that rural communities can rely on licensed vehicles where other forms of public transport are be limited. However, the costs of using services may be prohibitive for those on low or fixed incomes.

8.8. Children and Young People/Cared for Children

8.8.1. Our colleagues in Children Services have made us aware of their statutory responsibilities in ensuring children attend school, this includes using taxis to fulfil contracts. There is a lack of capacity in the market that is affecting their ability to provide that service. This is a further reason for not proposing any increase in driver fees. The Licensing Team will also be considering how best to support our colleagues in their statutory duties following the independent review into Travel Support for Children & Young People.

8.9. Public Health

8.9.1. There are no direct implications for public health

8.10. Climate Change

8.10.1. There are no direct implications for climate change

Access to Information	
Contact Officer:	Kim Evans, Licensing Team Leader licensing@cheshireeast.gov.uk 0300 123 5015
Appendices:	Appendix 1 – Fees and Charges for 2023/2024
Background Papers:	None