

Licensing Committee

Date of Meeting: 04 November 2019

Report Title: Review of Licensing fees and charges

Senior Officer: Frank Jordan, Executive Director - Place

1. Report Summary

- 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 2020.

2. Recommendation/s

- 2.1. That the Licensing Committee resolves to:
 - 2.1.1 Confirm the fees payable as set out in appendix 1.
 - 2.1.2 Authorise the Licensing Team Leader to publish the Hackney Carriage and Private Hire Licensing fees in accordance with the relevant legislative provisions.
 - 2.1.3 That delegated authority be given to the Director of Environment and Neighbourhood Services to consider any objections received and determine the final fees payable in consultation with the Chairman of the Licensing Committee.

3. Reasons for Recommendation/s

- 3.1. A review of the fees payable in respect of various types of licence and permits administered, enforced by the Licensing Team, has been undertaken. For the fees to be lawful and levied correctly a review of all licensing fees needs to be undertaken and the fees confirmed by Committee.

4. Other Options Considered

- 4.1. 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. Background

- 5.1. 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 general profit from licensing fees.
- 5.2. 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, purchase costs etc.
- 5.3. A number of fees are fixed by Statute; these are highlighted in Appendix A. It is envisaged that the increase in fees would take effect in April 2020 (subject to consultation and consideration of any objections).

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. Regulation 2 (6) of the Local Authorities (Functions and Responsibilities) Regulations 2000 confirms that where the issuing of any licence, permit, or consent is a Council function, the fee must also be set by the Council. The Council has made provision in its Constitution for the setting of fees to be delegated to the Licensing Committee.
- 6.1.2. The Licensing Act 2003 (along with all licences except those relating to taxis and gambling) 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, confirms:
 1. Fee charges must be proportionate to the cost of the process
 2. Fees cannot be used as either a deterrent or to raise funds
 3. Enforcement should not be included in the fees
- 6.1.3. 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.

6.1.4. 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:

1. The reasonable cost of inspecting Hackney Carriages and Private Hire vehicles to ascertain whether any such licence should be granted or renewed.
2. The reasonable cost of providing Hackney Carriage stands.
3. Any reasonable administrative or other costs in connection with the above and with the control and supervision of Hackney Carriages and Private Hire vehicles.
4. The Act, which dates from 1976, also 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.

6.1.5. 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'.

6.1.6. Any other fees are restricted by legislation (e.g. Licensing Act 2003) and the Council has no power to vary such fees. There is no power to levy a fee for any Charitable Collection authorisations.

6.1.7. Additionally, there is some case law that has further developed the requirements in relation to the setting of all fees:

1. The Licensing Authority cannot make a profit and must carry forward surplus - R v Manchester CC ex parte King (1991) and R (app Simply Pleasure and Ors) v Westminster CC (2012)
2. Deficits can be recouped through increasing fees (this can be done at any time including mid year) - R v Tower Hamlets LBC ex parte Tower Hamlets Combined Traders Association (1994) and R (app Simply Pleasure and Ors) v Westminster CC (2012)
3. Only administration and issue costs can be taken into consideration - R (app Simply Pleasure and Ors) v Westminster CC (2012)
4. Compliance with a licence or conditions etc. is compliance rather than enforcement - R v Associated Octel co Ltd (costs) (1996)

6.1.8. The legislation and associated case law have been considered by Officers when calculating the proposed fee.

6.2. Finance Implications

6.2.1. Where possible, the licensing service 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.

6.2.2. 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 an increased, subject to notice and consultation, at any time (including mid year).

6.3. Policy Implications

6.3.1. The fees proposed are compatible with our charging strategy.

6.4. Equality Implications

6.4.1. There are no direct equality implications. The fees are calculated on a cost recover basis and will not disproportionately affect those with a protected characteristic.

6.5. Human Resources Implications

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

6.6. Risk Management Implications

6.6.1. There are no direct risk management implications.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

6.8. Implications for Children & Young People / Cared for Children

6.8.1. There are no direct implications for children and young people.

6.9. Public Health Implications

6.9.1. There are no direct implications for public health.

6.10. Climate Change Implications

6.10.1. There are no direct implications for climate change

7. Ward Members Affected

7.1. All wards.

8. Consultation & Engagement

8.1. 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.

9. Access to Information

9.1. Not applicable.

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

Name:	Kim Evans
Job Title:	Licensing Team Leader
Email:	kim.evans@cheshireeast.gov.uk