

REPORT TO: LICENSING COMMITTEE – 10 DECEMBER 2010
REPORT BY: LICENSING MANAGER
REPORT AUTHOR: NICKII HUMPHREYS

Review of Sex Establishment Licence Fees

The purpose of this report is for the Committee to review the current level of fees charged for Sex Establishment Licences.

RECOMMENDED:

- 1) That the Committee note the contents of this report; and**
- 2) That the proposed table of licensing fees associated with the licensing of sex establishments be approved and implemented with immediate effect.**

1.0 Background Information

On 13 October 2010, The Licensing Committee considered a report relating to a review of the current discretionary fees charged for the various licensing functions (Minute number 22/10 refers).

When considering this item, and in particular the issue relating to a reduction in the fee payable in respect of applications to renew sex establishment licences, members required further information as to:

- Why it was recommended that the renewal fee in respect of sex establishment licences should be reduced;
- Where Portsmouth stood in comparison to other local authorities in terms of their licensing fees; and
- Why the Licensing Manager was proposing a '50% saving' for the owners of sex establishments when all other areas were having to face an increase in fees.

The Committee therefore deferred the proposed change in sex establishment licence fees to enable the Licensing Manager to gather further information from neighbouring local authorities as to their fee charges and report back accordingly.

2.0 Legal Considerations

The licensing of sex establishments is in accordance with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Section 19 of the Act provides that an application for the grant, variation¹, renewal or transfer

¹ This amendment has recently been introduced by the Policing and Crime Act 2009, s27, but only applies where section 27 has been specifically adopted by the authority.

of a sex establishment licence shall pay a reasonable fee determined by the appropriate authority.

It has always been the policy of the Committee to recover, where possible, the cost of undertaking the various licensing functions. In addition, there is a significant amount of case law relating to both sex establishment licensing and other types of licensing functions which dictates that licensing authorities may only charge such fees as are reasonable to recover the cost of the licensing function and must NOT charge oppressively large fees.

Additionally, the EU Services Directive which came into force in December 2009 has implications concerning the fees that may be charged to applicants and licence holders. The Directive is intended to create significant new opportunities for UK businesses by opening up of the internal market in services through the removal of unjustifiable barriers to the provision of certain services. In addition it also aims to make it easier for businesses to set up in other EU countries and to provide services across national borders on a temporary or permanent basis.

Government guidance issued in accordance with the Directive reinforces that local authorities must set fees that are proportionate to the effective cost of the procedure dealt with and that local authorities need to bear in mind the threat of a legal challenge should an applicant or licence holder feel that the levels of fee are being used as an economic deterrent or to raise funds for local authorities.

2.0 Table of Proposed New Fees

Sex Establishment Licences:	Existing Fee:	Proposed Fee:
	£	£
Grant	12000.00	12000.00
Renewal	8000.00	4000.00
Transfer	NIL	500.00

3.0 Comparison of fees charged by other local authorities in Hampshire

Name of Authority:	Type of Fee:	Current Fee:
		£
Basingstoke & Deane BC	Grant	5030.00
	Renewal	3800.00
	Transfer	1000.00
	Variation	1000.00
East Hants DC	Grant	240.00
	Renewal	195.00
Fareham BC	Grant	1480.00
	Renewal	1480.00
Gosport BC	Grant	6370
	Renewal	3359

Name of Authority:	Type of Fee:	Current Fee: £
Havant BC	Grant	4300.00
	Renewal	4300.00
	Transfer	4300.00
Isle of Wight DC	Grant	3500.00
	Renewal	3500.00
New Forest DC	Grant	6955.00
	Renewal	6955.00
	Transfer	6955.00
Rushmoor BC	Grant	6620.00
	Renewal	3060.00
	Transfer	6620.00
Southampton CC	Grant	3500.00
	Renewal	3500.00
	Transfer	3500.00
Test Valley BC	Grant	3000.00
	Renewal	3000.00

4.0 Comparison of charges by other local authorities in England & Wales

Name of Authority:	Type of Fee:	Current Fee: £
Bournemouth BC	Grant	3678.00
	Renewal	1866.00
	Transfer	878.00
Brighton & Hove CC	Grant	11837.00
	Renewal	10061.45
	Occasional	4044.00
Bristol CC	Grant	8000.00
	Renewal	5500.00
	Transfer	796.00
	Variation	63.00
Cardiff CC	Grant	2510.00
	Renewal	2510.00
	Transfer	2510.00
Leeds CC	Grant	8098.00
	Renewal	3271.67
	Transfer	248.00

Name of Authority:	Type of Fee:	Current Fee: £
Westminster CC	Grant	29102.00
	Renewal	29102.00
	Transfer	1334.00
	Variation	782.00

5.0 Conclusion

The proposed decrease in fee in respect of the consideration of applications to renew sex establishment licences recognises that the current costs associated with this aspect of the administrative procedure are considered to be in excess of the actual cost of the provision of the statutory licensing function.

Members will note however, that it is proposed to retain the current fee of £12,000.00 in respect of the consideration of new applications. Previous experience has shown that the cost of processing and considering such applications can be significant in terms of resources and the potential for legal challenge and therefore it is considered appropriate at this point in time to maintain the current level of fee.

Additionally, it is proposed to introduce a charge for the consideration of transfer applications as various background checks have to be undertaken to ensure the suitability of any potential licence holder in accordance with the statutory requirements.

THERE ARE NO BACKGROUND PAPERS ASSOCIATED WITH THIS REPORT.



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Licensing Manager