

**Title of meeting:** LICENSING COMMITTEE

**Date of meeting:** 15 JANUARY 2016

**Subject:** ANNUAL REVIEW OF LICENSING FEES

**Report by:** LICENSING MANAGER

**Wards affected:** All

**Key decision:** No

**Full Council decision:** No

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**1. Purpose of report**

The purpose of this report is for the Committee to consider a review of the non-statutory fees charged for licences/registrations which are administered by the Licensing Committee.

**2. Recommendations**

- a) That the Licensing Committee note the contents of this report and determine the level of fee to be adopted;**
- b) That the approved fees be implemented with effect from 1 April 2016 unless otherwise stated within the report; and**
- c) That the Director of Culture and City Development be given authority to advertise, (where appropriate) such fees and charges that are subject to any formal public statutory consultation.**

**3. Background**

- 3.1** It has always been the aim of the Committee to work towards total cost recovery, where possible in undertaking the various licensing functions. For some licences/permits, no fee is payable or the licensing fees are controlled centrally by Government. In these cases, the Council cannot vary the fees to take into account local administrative costs.
- 3.2** However, members should be aware that the EU Services Directive 2009 makes specific provisions in relation to the setting of fees. Charges must be reasonable and proportionate to the cost of the processes associated with a licensing scheme. Councils must not use fees covered by the Directive to make

a profit or act as an economic deterrent to deter certain business types from operating within an area.

A copy of the LGA Guidance on locally set fees is attached as Appendix A as well as an update on a Supreme Court ruling - Hemming v Westminster City Council referred to in the Guidance.

3.3 On 5 November 2008, the Licensing Committee resolved that these fees are to be reviewed on an annual basis to take into account inflationary and other increased costs (Minute No. 15/08 refers).

3.4 Due to increasing budget pressures on the Council, the Committee will need to consider whether it wishes to continue to work towards the licensing service achieving total cost recovery, where it has discretion to set fees and no longer carry a deficit which has to be met by the Council tax payer.

3.5 To achieve this objective, the licensing service in conjunction with financial services have developed a model to undertake a thorough analysis of the costs associated with each of the various licensing functions and what increases, if any, are necessary to the existing licence fees to meet total cost recovery.

This analysis took into account the on-costs for employees, supplies and services, agency and other contracted services so that the licensing budget meets the cash limit requirement as set down in the Council's budget and continues to rectify the current deficit.

3.6 At the formal meeting of the Licensing Committee on 10 January 2014, it was determined that a staged approach over 5 years to achieve cost recovery would be implemented in respect of certain hackney carriage and private hire fees subject to annual review.

The fees in respect of amenities on the highway, sex establishments and street trading were implemented with immediate effect to achieve cost recovery.

3.7 The Committee subsequently considered an annual review of licensing fees at its meeting on 21 November 2014 and decided upon an immediate increase in fees to achieve full cost recovery and that the approved fees be implemented with immediate effect save for those charges that were subject to any formal statutory consultation period.

Following public consultation, objections were received in respect of the fees to be charged in relation to the proposed increases.

3.8 The Committee met on 13 January 2015 to consider the objections and to determine the fees to be charged and resolved:

- i) To introduce an immediate increase in fees to achieve full cost recovery for private hire vehicle and driver licences;

- ii) That the fees for private hire operators, hackney carriage vehicle and driver licences be recovered over the period of 5 years recommended in 2013 to achieve full cost recovery.

### 3.9 **New fees and charges proposed to be introduced**

It is proposed to introduce new fees and charges to reflect legislative changes in terms of the duration of certain licences and also to recoup the costs of administering the licensing function. The proposals are set out below:

- **De-Regulation Act 2015 - Duration of Private Hire Operators Licence, Private Hire and Hackney Carriage Drivers Licences**

The Act has amended sections 53 and 55 of the Local Government (Miscellaneous Provisions) Act 1976 so that private hire and hackney carriage drivers licences shall remain in force for three years from the date the licence was first granted or for a lesser period as the council think appropriate in the circumstances of the case.

The same provision extends to private hire operators where a licence shall remain in force for five years or for a lesser period as the council think appropriate in the circumstances of the case.

It is therefore necessary for the Committee to set an appropriate level of fee relative to the extended period of time that a licence may be granted. The proposed fee as set out in Appendix B reflect a saving to the applicant in terms of the costs associated with the longer period of licensing.

- **Section 49 Transfer of Ownership - Admin Fee**

At present, the Licensing Authority makes no charge for the administrative processes associated with the updating of records where a vehicle proprietor transfers his/her interest in a vehicle to another person/company. Given the need for the Authority to achieve cost recovery where possible, it is considered appropriate for a reasonable fee to be charged to reflect the on-costs associated with this process.

- **Change of Vehicle Registration Number - Admin Fee**

As per the comments above, no fee is currently charged to update licensing records in those circumstances where a vehicle proprietor changes a vehicle's registration number (ie "personalised number plates"). As there is a cost implication in terms of officer time in processing such changes a minimal charge is proposed to recoup those costs.

- **Plate Issue Fee**

There has been a long standing policy of charging a "plate deposit" against the issue of a licence plate to be affixed to the vehicle to denote that it is a licensed private hire or hackney carriage vehicle. The design and specification of the plate has changed over the course of time and the holding of a "deposit" against the issue of a plate is now considered to be an inefficient process for both the proprietor and Licensing Authority.

It is proposed to charge a significantly reduced fee which reflects the cost of producing the actual plate as opposed to a deposit based system.

3.10 The proposed fees set out in Appendix B to this report follow the principle of cost recovery and refers to the decision of the Licensing Committee in January last year to recover fees for private hire operators, hackney carriage vehicle and driver licences over a reducing 5 year period as first commenced in 2013.

3.11 **However, as part of this year's analysis of officer time allocations and anticipated expenditure in order to project the costs to be apportioned to each licensing function, it has been identified that the projected level of income for hackney carriages for 2016/17 will be sufficient based upon the existing charge and therefore there will be no requirement for the fees for hackney carriage vehicles and drivers to increase this year (16/17 financial year).**

Therefore, the only licence fee which will continue to be recovered over the reducing 5 year period will be for Private Hire Operators as follows:

- Year 3 - 2016/17 (with effect from 1 April 2016)
- Year 4 - 2017/18 (with effect from 1 April 2017)
- Year 5 - 2018/19 (with effect from 1 April 2018)

3.12 All other fee increases are proposed to take effect from 1 April 2016 with the exception of the following charges where an immediate increase/charge of a fee is proposed (subject to public consultation for those fees connected with vehicle and private hire operator licences):

- Section 49 Vehicle Transfer - Admin Fee
- Change of Vehicle Registration Number - Admin Fee
- Plate Issue Fee
- Driver's Licence - 3 year fee
- Private Hire Operator - 5 year fee

3.13 Appendix C is a summary of the analysis of the Licensing Budget which identifies both revenue and expenditure under each licensing function.

#### **4. Reasons for recommendations**

The reason for the recommendations are to ensure that the Committee consider the principle of working towards the licensing service achieving total cost recovery, where it has discretion to set fees, and to determine the appropriate level of charges having regard to the legislation, case law and LGA guidance.

#### **5. Equality impact assessment (EIA)**

No equality impact assessment is required as the review of the annual fees does not represent a change in policy or provision of service.

#### **6. Legal Implications**

The legal implications are embodied within the report.

#### **7. Finance Comments**

- 7.1 The Licensing Committee have been made aware of recommendation in terms of cost recovery and the amounts required to reduce/eliminate the current deficit on the licensing budget in respect of hackney carriage and private hire licences.
- 7.2 The recommendation put forward for consideration is based upon a thorough analysis of the costs associated with each of the licensing functions.
- 7.3 Members should be cognisant that any decision as regards the setting of fees that cannot be shown to be justified or reasonable could give rise to legal challenge by licence holders.

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Signed by:

#### **Appendices:**

- Appendix A Copy of the LGA Guidance on locally set fees (including an update on the Supreme Court Ruling regarding Hemmings v Westminster City Council);
- Appendix B Table of Existing and Proposed Fees;
- Appendix C Summary Analysis of the Licensing Budget;

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/  
rejected by ..... on .....

Signed by: