



AGENDA ITEM: 5

SUMMARY

Report for:	Licensing Health & Safety Enforcement Committee
Date of meeting:	12th February 2013
PART:	1
If Part II, reason:	

Title of report:	Licensing fees 2013-14
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To outline proposals for licensing application fees in the financial year 2013-14
Recommendations	To instruct officers to commence public notification and consultation on the proposed fees, and to report results to a future meeting of the Committee
Corporate objectives:	<p>Dacorum Delivers</p> <ul style="list-style-type: none"> • The proposed fees have been calculated on a cost recovery basis, and projections show that if the revised fees are adopted the costs of administering licensing schemes should be recovered.
Implications:	<p><u>Financial</u> Where required, public notice of the proposed changes to fee levels has been given, with an attendant cost. The proposed fee amendments are projected to result in an increase in Licensing service revenue of approximately £25-30,000 per annum.</p> <p><u>Value for Money</u> The proposed fees have been calculated on a cost recovery basis, with the aim of ensuring that administrative, processing and certain compliance costs are recovered in full.</p> <p><u>Risk / Equalities / Health & Safety</u> None</p>

Consultees:	Responses to consultation are set out within the report.
Background papers:	Draft Licensing Fees & Charges 2013-14
Glossary of acronyms and any other abbreviations used in this report:	

1. BACKGROUND

- 1.1. Dacorum Borough Council has statutory responsibility for the administration and enforcement of a wide range of licences, registrations and permits. A number of these schemes allow the Council to levy an application fee, payable by an applicant for an authorisation, in order to cover the costs (or a proportion thereof) of the administration of those licences. In some cases, costs are also permitted to cover other aspects of providing the scheme.
- 1.2. The basis in setting such fees is generally to ensure full cost recovery, or as close to it as possible. Numerous legal cases over the years have confirmed that licensing fees may not be used to generate a profit for councils, and that fees should be reviewed regularly (generally annually) to ensure that neither a significant surplus nor deficit is created. Surpluses or deficits are to be carried forward to future years to be redistributed or recouped, as applicable.
- 1.3. For a number of reasons, the fees charged in Dacorum have not been reviewed en masse for several years – for example, the fees charged in respect of taxi drivers and vehicles are unchanged since at least April 2004. Given that inflation alone in this period would account for an average 25% increase in costs, it is hardly surprising that the fees charged no longer accurately reflect the costs of administering the licensing scheme.
- 1.4. There have been a number of recent developments, such as the implementation of the EU Services Directive, and recent court cases such as R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council¹, which have had a significant impact on Council's powers to set and collect fees. Both the legislation and that case have confirmed that, at least for formalities within scope of the Services Directive, the costs of enforcing a licensing regime may not be recovered via fees (the Court of Appeal has recently heard an appeal on the Westminster case, but at the time of writing judgement has not yet been given).
- 1.5. It is now proposed to review and set licensing application fees for the financial year 2013-14, and the remainder of this report sets out the specific proposals in this respect.
- 1.6. Moving forward, it is expected that this will become an annual exercise. Due to recent and imminent changes in structure, personnel and procedures within the Licensing section, a number of costs have had to be estimated this year, and these costs will be among the first elements reviewed in subsequent years, to ensure the accuracy of our fees.

¹ [2012] EWHC 1260 (Admin)

2. POWERS TO SET FEES

- 2.1. The table at Annex A summarises the Council's powers to set its fees in respect of licensing applications, and any limitations on those powers.

3. PROPOSALS

- 3.1. On the 27th November 2012, the Committee considered preliminary proposals for service-wide fees and charges for the period from 1st April 2013 to 31st March 2014, prior to consultation. A number of minor amendments have now been made to the proposals following consultation, and a revised draft list of licensing fees and charges is appended to this report as Appendix A.

- 3.2. Increases are proposed to a number of the fees charged in respect of licensing applications, where the current fee does not currently accurately reflect the costs to the council of processing and determining that application type. However, a number of decreases have also been proposed, where costs are currently below the fee charged – for example, change of taxi vehicle ownership, renewal of home boarding licences, bingo licences, dog breeding establishment licences, and transfers of sex establishment licences.

- 3.3. It is understood that the economic climate for regulated businesses remains challenging at best, and any form of cost increase for those businesses will be unwelcome. Increases have not been suggested lightly, and represent an activity on which the Council currently incurs costs significantly greater than the current fee recovered. A number of policies and procedures are currently under review, with further areas to follow in the coming months, with a view to streamlining licensing processes and reducing costs wherever possible, which may in future years enable fees to be reduced.

- 3.4. The following comments are made on specific proposals:

Section 1.1: A fee for initiating an appeal against an officer's decision to refuse exemption from standard conditions or policies was initially proposed. There remain a number of concerns about the lawfulness of such a charge. For this reason, the proposal to introduce this charge is not currently being pursued. A review of the delegated authorities will now be carried out to ensure that such decisions are being properly made, and that the opportunity to challenge such decisions by way of request to the Committee is correct.

Section 2: We are currently awaiting confirmation of when the power to set fees for alcohol/entertainment applications will be commenced. In the absence of regulations setting out the matters that must be considered in setting these fees, this part of the exercise has not been completed. Should the powers be commenced in 2013 prior to the annual review of all fees, a separate proposal for these fees will be put to the Committee.

Section 3.1: A discount has been proposed in respect of home boarding establishments, which generally are smaller and carry a lower risk, thus requiring less officer time. The limitation on the number of animals initially proposed has now been removed from the proposals – this will instead be considered during a review of all animal licensing policies later this year.

Section 3.2: Separate fees have been proposed for two types of variations. Those applications in respect of an increase in the number of animals or species being kept will generally engage officers and veterinarians, requiring an inspection of the premises to be carried out to ensure suitability. On the other hand, administrative matters (such as a condition permitting the transfer of animals for a temporary exhibition) will generally have a lower impact on service delivery.

Section 3.6: It is believed that these fees have not previously been set, and there are currently no such licences in force in the Dacorum area. As such, fees have been based on estimated costs only, as there is no relevant data against which to benchmark.

Section 4.3: All of these fees had previously been set at 50% of the prescribed maximum amounts on commencement of the licensing scheme, with the exception of bingo licences which had been set at 100%. These have now been adjusted in accordance with the authority's experiences to date. As no track betting, bingo or family entertainment centre licences have been issued to date, these fees have been based upon estimated costs only.

Section 6: A number of policy and procedural changes have either been proposed or are currently being implemented to this licensing area, and where possible the fees have taken those changes into account. However, in a number of cases, it has not been possible to accurately calculate the effect on costs, resulting in estimated costs being used here. Where these result in reduced processing costs, fees will be adjusted accordingly during future reviews.

Section 6.1: It was originally proposed to set different fees in respect of hackney carriage and private hire drivers, to help fund stand improvements. Upon closer examination of the legislation, it is now believed that this would leave the authority open to challenge, and these provisions apply to vehicles and operator licences only.

Section 6.2: It is still proposed to apply a £15 surcharge to annual hackney carriage vehicle licences, which will be utilised to develop the provision of stands around the borough.

Fees for stretch limousines were mistakenly omitted from the initial document. These vehicles are subject to different compliance standards, and are tested at an alternate test centre, with a higher fee. The more fragile nature of the vehicles also means that they are currently licensed for a 6-month period, as opposed to 12 months for standard vehicles. Stretch vehicle licensing procedures are another area likely to be reviewed in the coming months.

Section 6.3: Previously 3 fee bands were offered here. Amalgamation of the upper two bands has been proposed to more accurately reflect the costs involved in processing such applications, which are not necessarily quantity related, while preserving a cheaper option for the smallest operators (e.g. sole traders). This has been identified as a priority area for review, and a report with various new policies and procedures is likely to be presented to Committee before the summer.

Section 7: Hypnotism authorisations were mistakenly omitted from the initial proposals, although it must be noted that, outside of London, there is no statutory power to require payment of an application fee.

Section 8: Currently there is no power to charge a fee in respect of the registration of scrap metal dealers. A new bill that would require scrap metal dealers to be formally licensed is currently under consideration in the House of Lords, which may receive Royal Assent and be commenced as soon as this Summer. It is understood that the Bill makes provision for the payment of a fee to cover the more robust checks and authorisation process that would be undertaken. Further proposals will be brought to the Committee at the appropriate time.

Section 9.1: Previously, fees were set at different levels for different categories of sex establishment. Given that the costs involved are similar, these have now been equalised across all categories. A separate enforcement component was also set previously – this has now been eliminated, as such an approach is no longer permissible.

Section 10: These fees have been proposed on an interim basis, as officers are now reviewing the policies and procedures applied to this category of licence, with a view to reporting to Committee shortly on possible amendments. Where these have the effect of reducing processing costs, this will be taken into account during the next fees review.

4. CONSULTATION AND RESPONSES

4.1. Following the November Committee meeting, details of the proposed fees and charges for the 2013-2014 period were published on the Council's website (in both the Licensing area and on the Consultations page), and linked via the Council's Facebook and Twitter accounts. Details were also included within the December taxi e-newsletter. A window for the receipt of comments on the proposals, from the 3rd December 2012 to the 20th January 2013, was offered.

4.2. The following responses to the proposals were received:

From: Dacorum Hackney Carriage Drivers Association

To licensing Department

After a consultation with the majority of the Taxi drivers in Dacorum with regards to the proposed increase in Vehicle license renewal fee from the current £200 to £240 (20% increase). The vast majority of the drivers have expressed reservations with regards to the increase being far too high. We would like to point out that the current rate of inflation is at 2.7%, and also the services being offered by the licensing department has dropped considerably over the last few years, for example the time it now takes to get the new vehicle license paperwork - or to get an appointment to see a licensing officer. Other problems like the taxi rank space has still to be rectified.

On behalf of the Taxi trade we strongly oppose the 20% rise, we would recommend a reasonable increase linked to current inflation rate.

The drivers also have raised concerns as to why they were not given written

information with regards to a proposed increase in licensing fees (we recommend that the Council still has time to notify the drivers of these proposed changes). Also it would be easier if the council could try to obtain e-mail addresses so that more drivers could be notified in future of any changes.

- 4.3. It is fair to say that taxi licensing remains the single largest area of work for the Licensing section. As noted earlier in this report, fees in this area are unchanged since 2004; however in this time the costs to the Council of processing such applications, including MOT/compliance test fees, plates and badges, printing and postage, and staffing costs have increased considerably, meaning that the current fees, reflective of costs several years ago, are now insufficient to cover expenditure. The proposed fee levels, in officers opinion, reflect the current cost of processing applications in this statutory area, and of issuing any associated paraphernalia. Reference is made to the rate of inflation – had the vehicle licence fee increased with inflation since 2004, it would currently be around the £260 mark, substantially more than what has been proposed. The proposed rise is aimed at closing the gap that has opened between our fees and processing costs during the recent years in which no fee increase has been implemented. In respect of service levels, a number of reviews are currently underway to try and streamline further the procedures utilised in the service, and it is hoped that the trade will begin to see the benefits of these improvements in the coming months.

From: J.P., Home Boarding licence-holder

Many thanks for your prompt reply, much appreciated.

Thank you also for the information, I am pleased the cost of fees have been looked at, however, you are correct in saying, I still feel the Home Boarding Fees are high compared to the capacity a kennels/cattery have for income, they literally can board dozens and dozens of cats and dogs at any one time, whereas we deliver a very personal service where we care for a dog/s from just one family at a time, I do feel the costly fees could and probably does put people off from doing the right thing and applying for a license.

If your proposed fees come into operation next year, it will be an improvement as far as renewal is concerned, but a hefty fee for a new license at £160! This is very expensive, surely there isn't a lot of difference processing a new license to renewing a license. In the case of newly recruited Host Families, who are mostly are retired, and living on a limited income, this cost of a new license would be completely out of the question, therefore the expenses falls on my shoulders.

I would be glad of your thoughts on this.

- 4.4. The animal boarding fees, like all others, have been proposed on the basis of the costs of current authorisation procedures. While the greater potential revenue from commercial boarding premises as opposed to home boarders is recognised, it is not permissible to take this into account in setting fees. The authorisation procedures for both are largely similar, with the key difference being the longer inspection time required for commercial properties, due to the larger size and need to check the compliance of specialist accommodation. The difference between new applications and

renewals stems from the further checks and consultations currently carried out on those applications. Officers now intend to carry out a review of operational procedures and policies later this year across all animal licences, with a view to simplification and streamlining, which when implemented may allow fees to be reduced further in future years.

5. RECOMMENDATIONS

- 5.1. In pursuance of the powers specified in Annex A of this report, that the Committee set as the fees and charges payable by applicants in connection with applications and other processes for licences, registrations and permits the fees and charges as set out in the attached document, 'Licensing Fees and Charges 2013-14', for the period from 1st April 2013 to 31st March 2014.

ANNEX A – SUMMARY OF POWERS TO SET APPLICATION FEES

Section	Area	Power arises from
1.1	General service charges	Various legislation
2.1 – 2.5	Alcohol, entertainment, etc	At present, these fees are prescribed in regulations made by the Secretary of State under the Licensing Act 2003. Section 197A of that Act will allow licensing authorities to set fees locally on a cost-recovery basis, but is yet to be commenced.
3.1	Animal boarding	s.1(2), Animal Boarding Establishments Act 1963 Fee as may be determined by LA.
3.2	Dangerous wild animals	s.1(2)(e), Dangerous Wild Animals Act 1976 Sufficient to meet direct and indirect costs incurred
3.3	Dog breeding	s.3A(2), Breeding of Dogs Act 1973 Reasonable costs incurred in administration and enforcement.
3.4	Pet shops	s.1(2), Pet Animals Act 1951 Fee as may be determined by LA.
3.5	Riding establishments	s.1(2), Riding Establishments Act 1964 Fee as may be determined by LA. Cost of veterinary inspection.
3.6	Zoos	s.15(1), Zoo Licensing Act 1981 Sufficient to cover the reasonable expenditure incurred by the authority. Special provisions for inspections, closures, and direction making.
4.1, 4.3	Gambling notices, premises licences	Set on a cost recovery basis by the authority, up to maximum amounts prescribed in regulations made under the Gambling Act 2005. No fee chargeable for OUN's
4.2, 4.4	Gaming permits, lotteries	Prescribed in regulations made by the Secretary of State under the Gambling Act 2005
5.1 – 5.2	Charity collections	No fees chargeable
6.1	HC/PH drivers	s.53(2), Local Gov't (Misc. Provisions) Act 1976 Recovering the costs of issue and administration. Refundable if licence not granted.
6.2 – 6.3	HC/PH vehicles, PH operators	s.70(1), Local Gov't (Misc. Provisions) Act 1976 Sufficient to cover the cost of: inspection of vehicle for licensing purposes, providing hackney carriage stands, or other costs for administration and control/supervision of vehicles. Refundable if licence not granted. <i>Maximum fees must be advertised.</i>
7.1	Hypnotism	No fees chargeable
8.1	Scrap metal	No fees chargeable
8.2	Motor salvage	s.3(1)(b), Vehicles (Crime) Act 2001 Recovering the costs incurred in administration
9.1	Sex establishments	Sch 3, para 19, Local Gov't (Misc. Pr'ns) Act 1982 Reasonable fee
10.1	Skin piercing, etc	s.14(6), 15(6), Local Gov't (Misc. Pr'ns) Act 1982 Reasonable fee

ANNEX B – DRAFT LICENSING FEES AND CHARGES 2013-14