



**AGENDA ITEM: X**

**SUMMARY**

<b>Report for:</b>	<b>Licensing Health &amp; Safety Enforcement Committee</b>
<b>Date of meeting:</b>	<b>26<sup>th</sup> November 2013</b>
<b>PART:</b>	<b>1</b>
If Part II, reason:	

<b>Title of report:</b>	<b>Licensing fees and charges 2014-15</b>
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To outline proposals for licensing application fees in the financial year 2014-15, prior to consultation
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"> <li>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.</li> </ul>
Implications:	<p><u>Financial</u> There will be a cost in adoption of fees, as some will require public notice to be given. The proposed fee amendments are projected to result in an increase in Licensing service revenue of approximately 2.5% over the financial year.</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 and Safety</u> None</p>

Consultees:	This report proposes public consultation on all of the fees, with the results to be reported to a future Committee meeting for consideration.
Background papers:	Draft Licensing Fees & Charges 2014-15
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 a licence, 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. Many licensing schemes fall within the definition of ‘services’, under the EU Services Directive, as incorporated by the Provision of Services Regulations 2009. For such schemes, fees and charges must “*be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities*”.<sup>1</sup> The recent case of *R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council*<sup>2</sup> has examined this issue, and confirmed that fees must reflect administrative and compliance costs, but cannot include the costs of enforcement action against unlicensed operators.
- 1.4. 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.
- 1.5. It is now proposed to review and set licensing application fees for the financial year 2014-15, and the remainder of this report sets out the specific proposals in this respect.

## 2. PROPOSALS

- 2.1. A draft list of service-wide proposals for fees and charges, covering the period from 1<sup>st</sup> April 2014 to 31<sup>st</sup> March 2015, is appended to this report as Annex B.

<sup>1</sup> Reg 18(4), Provision of Services Regulations 2009

<sup>2</sup> [2012] EWHC 1260 (Admin)

- 2.2. Far fewer changes are proposed than last year, which represented the first wholesale review of fees at a service level in several years. Where increases have been proposed, this is generally due to a more accurate assessment of costs necessitating an increase to ensure costs recovery in full.
- 2.3. Officers are continuing to review many of the licensing policies and licensing procedures for authorisation schemes, with a view to streamlining service provision and reducing costs. Any reductions realised through these processes will be assessed and reflected in future fee-setting exercises.
- 2.4. The following comments are made on specific proposals:

**Section 2:** Powers for licensing authorities to set fees for alcohol and entertainment licences have been much delayed, but it is understood that a Home Office consultation is no imminent at the time of writing, with a view to commencement in summer 2014. As and when this power is commenced, a separate proposal for these fees will be put to the Committee.

**Section 3:** Small increases have been proposed to some of the animal licences available. In addition, it is intended to consider the use of veterinarians for inspections of licensed premises, and to carry out a formal tender process to secure the services of such, in the coming months.

**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. In particular, it is expected that significant changes will be made to the licensing processes for vehicles and operators within the next year.

**Section 8.1:** The setting of scrap metal licence fees is an executive function, and that category of fee will be excluded from consultation. Cabinet have previously agreed that the current fees shall continue to have effect throughout the next financial year.

### 3. RECOMMENDATIONS

- 3.1. That the Committee note the proposals in the draft 'Licensing Fees and Charges 2014-15' document; and
- 3.2. That the Committee instruct officers to give any necessary public notice and commence consultation on the proposals (excluding scrap metal licences), and report the results back to the Committee at its meeting on the 4<sup>th</sup> February 2014.

## ANNEX A – SUMMARY OF POWERS TO SETT APPLICATION FEES

Section	Area	Power arises from
	General principle	Reg 18(4), Provision of Services Regulations 2009 Any charges provided for by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities.
2.1 – 2.5	Alcohol, entertainment, etc	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	Hypnosis	No fees chargeable (except by London boroughs)
8.1	Scrap metal	Sch 1 para 6, Scrap Metal Dealers Act 2013 Fee set by the authority, with regard to guidance <b>FEES SET BY CABINET UNTIL 31/03/2015</b>

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 2014-15**