



AGENDA ITEM: 8

SUMMARY

Report for:	Licensing Health & Safety Enforcement Committee
Date of meeting:	4th February 2014
PART:	1
If Part II, reason:	

Title of report:	Licensing fees and charges 2014-15
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To set out proposed licensing application fees and charges for the financial year 2014-15, following consultation
Recommendations	To 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 annexed document, 'Licensing Fees and Charges 2014-15', for the period from 1 st April 2014 to 31 st March 2015
Corporate objectives:	Dacorum Delivers <ul style="list-style-type: none"> • VFM
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% compared to the previous financial year, assuming application numbers remain stable.</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:	No responses were received to the consultation carried out.

Background papers:	Draft Licensing Fees & Charges 2014-15 (Annex B)
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 may 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. Under 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*".¹ The recent case of R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council² 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, service-wide list of proposals for fees and charges in the period from 1st April 2014 to 31st March 2015, is appended to this report as Annex B.
- 2.2. Far fewer changes are proposed than last year, which saw 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.

¹ Reg 18(4), Provision of Services Regulations 2009

² [2012] EWHC 1260 (Admin)

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 – most recently, a Home Office consultation, but it is understood that a Home Office consultation is 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, as in many cases the current fees are some way below a cost recovery point – however a phased approach to increase is seen as preferable rather than introducing a major increase in one go. This service area is in need of significant policy and procedural review, which is intended for later this year.

Section 6: A number of policy and procedural changes have either been proposed or are currently being implemented to the taxi licensing function, 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 is thus excluded from any decision made by the Committee. Cabinet have previously agreed that the current fees shall continue to have effect throughout the next financial year.

2.5. The proposed fees were brought to Committee on the 26th November 2013, prior to the start of consultation. Details of the proposals were subsequently published on the Council's website, and sent out within the taxi newsletter, inviting any comments to be made by the 20th January 2014.

2.6. No comments received within that period. As such, no significant amendments have been made to the proposed fees. However, a small number of errors and omissions from the initial consultation version have been corrected.

3. RECOMMENDATIONS

3.1. 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 annexed document, 'Licensing Fees and Charges 2014-15' (excluding fees shown in section 8 relating to scrap metal licences), for the period from 1st April 2014 to 31st March 2015.

ANNEX A – SUMMARY OF POWERS TO SET APPLICATION FEES

Section	Area	Summary of fee-setting power
	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	All 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	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 FEES SET BY CABINET UNTIL 31/03/2015
9.1	Sex establishments	Sch 3, para 19, Local Gov't (Misc. Prov'ns) Act 1982 Reasonable fee
10.1	Skin piercing, etc	s.14(6), 15(6), Local Gov't (Misc. Prov'ns) Act 1982 Reasonable fee