

# Report to Regulatory Panel

Agenda  
Item:

**A.1**

Meeting Date: 26th October 2016  
Portfolio: Finance, Governance and Resources  
Key Decision: Not Applicable:  
Within Policy and  
Budget Framework YES  
Public / Private Public

Title: REVIEW OF CHARGES 2017/18 - LICENSING  
Report of: Director of Governance and Regulatory Services  
Report Number: GD54/16

## Purpose / Summary:

This report sets out the proposed fees and charges for areas falling within the responsibility of the Licensing Section of the Governance and Regulatory Services Directorate. The Regulatory Panel has responsibility for determining the licence fees, with the exception of those under the Scrap Metal Dealers Act 2013 which falls to the Executive

## Recommendations:

The Regulatory Panel is asked to agree the charges as set out in Appendices 'A' and 'B', with the exception of the Scrap Metal Act fees which have been determined by the Executive.

## Tracking

Executive:	<b>26<sup>th</sup> November 2016</b>
Overview and Scrutiny:	
Council:	

## **CITY OF CARLISLE**

To: The Members of the Regulatory Panel on 26 October 2016

### **REVIEW OF CHARGES 2017/18**

#### **GOVERNANCE AND REGULATORY SERVICES DIRECTORATE - LICENSING**

#### **1. BACKGROUND**

- 1.1 Each Directorate is required to carry out an annual review of fees and charges.
- 1.2 This report proposes the review of charges within the Governance and Regulatory Services Directorate in respect of Licensing Charges. The report has been prepared in accordance with the principles approved under the Council's Corporate Charging Policy.
- 1.3 The charges, which have been reviewed, are addressed separately below.
- 1.4 Attached at **Appendix A & B** is an extract from the summary of charges book, which shows the current and proposed level of charge for each of these services.

#### **2. CORPORATE CHARGING POLICY 2017**

- 2.1 The Corporate Charging Policy, which is part of the Strategic Financial Framework, was approved by the Executive and Full Council and sets out the City Council's policy for reviewing charges.
- 2.2 It is recognised that licence fees (that can be determined by local authorities) can only be set at a level which recovers the cost of administration, inspection and in some cases compliance of existing licences, which arise out of carrying out their licensing functions under the various legislation. Under European Directive 2006/123 art 13(2), any charges which an applicant for a licence may incur shall be reasonable and proportionate to the cost of the authorisation procedures in question and shall not exceed the cost of the procedures.
- 2.3 The Supreme Court in *Hemming v Westminster City Council*, however, held that a fee for renewing or retaining a licence may be charged, which may reflect the cost of enforcing the licensing regime. The Supreme Court referred this point to the European Court of Justice for a determination as to whether this is consistent with the European Directive. A final ruling is awaited. In the meantime, enforcement costs are not included in the relevant licensing fees.
- 2.4 It is Council policy to maximise charges to maintain full cost recovery wherever possible, and this should be the case when setting charges. In the case of licensing we are currently operating at an income level that is achieving full cost recovery.
- 2.5 Recognition should be made of the risk that licensing income levels can be subject to market forces out with the Council's overall control, including new responsibilities and the repeal of other legislation. In previous years, shortfalls in income projections

for certain services were encountered. This reinforces the message that any practice of simple annual increments in charges in line with the rate of inflation is inappropriate, as is a copycat approach that simply compares prices with other authorities, without taking into account other local factors, demand, and the achievement of Council priorities. The full range of factors identified in the guidance must be taken into account when setting charges, with the overall aim of achieving target income levels to achieve the full cost recovery of the administration, inspection and compliance with the licensing function.

- 2.6 In addition, the policy recognises that each Directorate is different, and requires Directors to develop specific principles for their particular service or clients groups.

### **3. LICENCES**

#### **4.1 Introduction**

Licensing income covers an extremely wide range of functions for which the Council is the licensing authority and the number of applications for various licences fluctuates each year. The current principal functions relate to the issue of licences for e.g. Premises and Personal (Licensing Act 2003), Hackney Carriages/Private Hire (Vehicles, Drivers and Operators), Gambling Premises and Machine Permits (Gambling Act 2005), Street Trading, Auctioneers and Sex Establishments.

The Licensing Act 2003 includes a number of licensable activities under one 'Premises Licence'. These include one or more of the following - liquor, Public Entertainment, Cinema, Theatre and Late Night Refreshment Houses. The fee structure is fixed by the Government.

The licensing budget has been directly affected by the Council's responsibilities under the Licensing Act 2003. The Government has identified that the administration of the legislation will be self-funded through the scale of charges, which have been set nationally. There remains the potential for the administration to require financial support from the Council should the nationally set fees fail to meet the operating costs of the licensing service. The Government set up an Independent Fees Review Panel in 2006, to enquire into the new fee structure to establish if it is sufficiently robust to provide the level of income required to administer the licensing function. The result of this review has been published, and the result is the Police Reform and Social Responsibility Act 2011. Section 121 amends the Licensing Act 2003 to give Local Authorities the power to set fees under the Act. However, after government consultation on this matter, including concerns from the licensed trade, it has been decided not to introduce locally set fees at this present time.

As a consequence of the Gambling Act 2005, local authorities assumed responsibility for licensing gambling premises and gaming machines during 2007, whilst the Gambling Commission licensed operators and personal licence holders. These premises include betting shops, bingo halls and racecourses. The machine permits include family entertainment centres, adult gaming machine centres and licensed premises gaming machines in alcohol licensed premises.

The fee banding was set nationally and licensing authorities were given the flexibility to set their fees within these bands, dependent upon local circumstances. On 4<sup>th</sup> April 2007 the Licensing Committee (through delegated authority) determined the fees in accordance with the regulations which are included in Appendix B. Fees under the Act for Lottery registration are fixed by central Government.

A review of the remaining charges (excluding Licensing Act 2003, Gambling Act 2005 and Sex Establishments) has identified that an increase is required in 2017/18 to keep pace with inflationary costs. This will not compromise the Council's position as a fair charging authority and should achieve full cost recovery.

Licensing functions are also undertaken by other Council Departments, such as Environmental Health in respect of tattooing, acupuncture and pet shops and Community Services for vehicle testing. The Council's Housing and Pollution teams issue licences in respect of houses of multiple Occupancy and Caravan Sites.

## 4.2 Licensing Act 2003

### 4.2.1 Premises Licences & Club Premises Certificates

The total number of premises and club certificates currently licensed is 508. This will always fluctuate each year and applications for variations will continue. We are now in a position to predict with a fair degree of accuracy what the income will be in 2017/18. Educational, church and community premises that apply for an entertainment only premises licence are exempt from the licence fee and we currently license 24 such premises.

The fee structure is fixed by central government and is based upon five non-domestic rateable value bands. The number of licences issued appears to have reached a plateau. There is no change in the fee structure, although an Independent Licensing Fees Review Panel has reported on this and we are waiting for the Government to publish legislation. Based upon the current number of licences issued, it is estimated that there will be an income of £99,000 in 2017/18, as set out in the fee bands at Appendix A.

### 4.2.2 Personal Licences

Any person who authorises the sale of alcohol requires a personal licence. All premises that are licensed for the sale of alcohol must therefore have a personal licence holder to authorise that sale.

We currently have a total of 1647 Personal Licences issued to date.

From 1 April 2015 it became no longer necessary to renew a Personal Licence under the Deregulation Act 2015 and all licences issued from 1<sup>st</sup> April are now for an 'indefinite period'.

We will continue to receive requests for amendments to licences at a cost of £10.50.

Based upon the current numbers of amendment applications received between 1<sup>st</sup> April 2016 and the 1<sup>st</sup> October 2016 it is estimated that this will continue at the same level and generate an estimated annual income of £1100.

#### 4.3 Vehicle Licences

##### 4.3.1 Hackney Carriages

Under the provision of the Local Government (Miscellaneous Provisions) Act 1967, the City Council may fix a reasonable fee to cover the cost of administration of Hackney Carriage Licences and vehicle inspections. Each Hackney Carriage is subject to an inspection by the Transport Department or Community Services before a licence is granted. Vehicles can be inspected up to 3 times per year dependant on the age of the vehicle.

In 2007 the application criteria for licensing Hackney Carriages was amended by the Regulatory Panel. With effect from 1<sup>st</sup> August 2007, all new licences issued will be for wheelchair accessible vehicles only.

Traditionally this Council has charged a lower fee for wheelchair accessible vehicles to encourage proprietors to purchase this type of vehicle. This is no longer necessary due to the decision of 1<sup>st</sup> August 2007 and the decision in the Hemming case. It was agreed in the 2009/10 budget process that we gradually bring the two fees closer together over the next few years. It is proposed that an increase of 3% is charged for non-wheelchair vehicles and the charge for wheelchair accessible vehicles be increased by 5% this year. This increase should maintain the current level of income and will be repeated next year to bring the fees closer together.

##### Hackney Carriage Driver Licences

New driver licences have increased to reflect work that is currently undertaken with prospective new drivers that has never previously been charged for. This includes:

- Advice in the first instance regarding how the trade works and how to become a licensed driver
- Attendance of 2 hour disability awareness session
- Knowledge test that is now a spoken test with a Licensing Officer to ensure language skills are acceptable
- Assisting and verifying a criminal record check application

Renewal driver licences have only increased as per the recommended rate.

##### 4.3.2 Private Hire Vehicles

The Local Government (Miscellaneous Provisions) Act 1976 provides for the regulation of the private hire trade by means of the issue of licences for operators, vehicles and drivers. The arrangements for vehicle inspections and the provision of the new licence plates are as for Hackney Carriages.

##### Private Hire Driver Licences

New driver licences have also increased to reflect work that is currently undertaken with prospective new drivers that has never previously been charged for. This includes:

- Advice in the first instance regarding how the trade works and how to become a licensed driver
- Attendance of 2 hour disability awareness session
- Knowledge test that is now a spoken test with a Licensing Officer to ensure language skills are acceptable
- Assisting and verifying a criminal record check application

Renewal driver licences have only increased as per the recommended rate.

- 4.3.3 As part of the Policing and Crime Bill, it will be mandatory to deliver training to all drivers on recognising the signs of Child Sexual Exploitation (CSE). This should receive Royal Assent in January 2017 and training will commence thereafter. Costs of this will be met through existing licence renewal fees and new licence fees. The training will be delivered to groups of 20/30 drivers at a time over 2017/18.

The fees for drivers, vehicles and operators, which aim to generate income of £73,000 for Hackney Carriage and £29,000 for Private Hire in 2017/18 are set out in Appendix A.

#### 4.4 Sex Establishment

The City Council has issued two sex establishment licences. A reduced fee structure was introduced in 2009/10 as a result of a national campaign by the trade and the recognition that the licence fee had risen dramatically since first being set in 1990. The fee for this licence was the subject of Hemming v Westminster discussed earlier in this report. Previously, this fee included a percentage for enforcing unlicensed operators. As a result of the Hemming, this element is no longer included. No increase on charges are proposed this year but the fee structure will be reviewed in 2017/18.

#### 4.5 Auctioneers

We only have one premise which requires licensed auctioneers. Currently we have 13 licensed Auctioneers. This would suggest an income of £559 in 2017/18.

#### 4.6 Pleasure Boats & Boatmen

The number of pleasure boats and boatmen has remained static in recent years. This coming year, the Licensing section intends to issue all boatmen with Identity cards along with their licences. The suggested charge aims to generate income of £1100 in 2017/18.

#### 4.7 Scrap Metal Dealers

The Scrap Metal Dealers Act 2013 which commenced on 1<sup>st</sup> October 2013 brings together two earlier pieces of legislation that covered Scrap Metal and Motor Salvage Operators. The licence covers a three year period therefore the income will vary from year to year. The income from existing operators was received in October 2013. Renewal fees will be due in October 2016 for the forthcoming 3 year licences.

The current fee was agreed by the Executive on 1<sup>st</sup> August 2016 for a period of three years and will be reviewed again in 2019.

The current renewals expect to generate income of £3578 in 2017/18, as set out in Appendix A.

#### 4.8 Gambling Act 2005

##### Lottery Licences

The fee for lottery registrations is determined by central government and is at present £40 and the renewal fee is £20.00; these charges were last increased in September 2007. There has been a decrease in the number of applications received over recent years and the current level is expected to be maintained. The current fee should generate approximately £4,400 in 2017/18.

##### Gambling Premises and Machine Permits

The fee bands are set by central government and the Licensing Committee sets its own fees within these limits, based upon full cost recovery of providing the licensing service. These fees were determined on 4<sup>th</sup> April 2007 by this committee and we continue to recover the full cost of providing the service and no change is recommended.

At the current level of fees, an estimated income of £14,000 for Gambling Premises and Machine Permits will be received during 2017/18, which is set out in Appendix B.

#### 4.9 Street Trading

The number of licensed street traders has remained consistent over the last couple of years. A full review of our street trading policy is currently being undertaken to update our existing policy that dates back to 1984. This includes identifying all consent and prohibited areas, as well as investigating all trading estates, parks and arterial routes into the City. Consultation with Responsible Authorities, trade and public will also be exercised to ensure all views and opinions are taken into account to ensure Licensing objectives will not be compromised. It is recommended that the Street Trading charges are significantly increased for 2017/18 from £105 to £210 for an annual permit. Our existing charges are low compared to other local authorities (SLDC charge £252 and Eden £310 for equivalent permits in 2016/17) We currently licence 32 Street traders. If this level remains, the income generated will be £6,720 in 2017/18.

#### 4.10 Riding Establishments

The current number of licensed riding establishments is 5. Based on this number and the revised fee this should provide an income of £515 in 2017/18, as set out in Appendix A.

## 5 SUMMARY OF INCOME GENERATED

- 5.1 The introduction of the charges proposed is an estimate (based upon the current and estimated number of licences) to generate income of £236,800 in 2017/18 which is summarised in the table below:

Service Area	Updated Budget 2016/17 £	MTFP Target 2017/18 £	Original Estimate 2017/18 £	Shortfall or (Excess) over MTFP £	
Licensing Act 2003 - Premises	104,000	104,000	99,000	0	*
Licensing Act 2003 – Personal Licenses	4,000	4,000	1,100	2,900	*
Hackney Carriage (1)	78,000	78,000	73,000	5,000	
Private Hire (1)	21,600	21,600	29,000	(7,400)	
Sex Establishment	3,800	3,800	3,800	0	
Auctioneers	600	600	600	0	
Pleasure Boats	1,100	1,100	1,100	0	
Scrap Metal ( <i>Renewal</i> )	1,000	1,000	3600	(2600)	
Gambling Act 2005 – Lotteries	4,400	4,400	4,400	0	*
Gambling Act 2005 – Premises and Gaming Machines	14,000	14,000	14,000	0	*
Street Trading	3,300	3,300	6,700	(3,400)	
Riding Establishments	400	400	500	(100)	
<b>Total</b>	<b>236,200</b>	<b>236,200</b>	<b>236,800</b>	<b>(600)</b>	

\* Fixed fees

## 6 CONSULTATION

- 6.1 Consultation to Date -  
None

- 6.2 Consultation Proposed -  
Hackney fees must be advertised in the local press after determination.

## 7 RECOMMENDATIONS

The Regulatory Panel is asked to agree the charges as set out in Appendices 'A' and 'B' with effect from 1<sup>st</sup> February 2017.



## **8 REASONS FOR RECOMMENDATIONS**

To ensure that the City Council's Corporate Charging Policy is complied with and sufficient income is generated to cover the costs associated with administering and enforcing the Council's statutory licensing function

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**Appendices  
attached to report:**

**Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:**

- **None**

### **CORPORATE IMPLICATIONS/RISKS:**

**Chief Executive's -**

**Deputy Chief Executive –**

**Economic Development –**

**Governance –**

**Local Environment –**

**Resources -**

## Appendix A

LICENSING

		<u>Charge</u> <u>from 1/2/16</u> £	<u>Charge</u> <u>from 1/2/17</u>	<u>Implementation</u> <u>Date</u> <u>of increased</u> <u>fees</u>
1	(A) <u>Licences - Licensing Act 2003</u>			

Premises +

(Based on non-domestic RV)

	New	Annual Fee	Annual Fee	
			-	
Band A	100.00	70.00	70.00	24.11.05
Band B	190.00	180.00	180.00	24.11.05
Band C	315.00	295.00	295.00	24.11.05
Band D	450.00	320.00	320.00	24.11.05
Band E	635.00	350.00	350.00	24.11.05

Personal +

Personal Licence amends	10.50	10.50	24.11.05
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+ These Charges are currently set by the Home Office

(B) Licences - Public TransportVehiclesHackney Carriages

		<u>Last</u> <u>increase:</u>			
Hackney Carriage:	New	1.02.16	225.00	231.00	1.02.17
	Renewal	1.02.16	191.00	197.00	1.02.17
Hackney Carriage (whchair):	New	1.02.16	205.00	215.00	1.02.17
	Renewal	1.02.16	168.00	176.00	1.02.17
Hackney Carriage:					
Driver 1 year Licence	New	1.04.16	110.00	125.00	1.02.17
Driver 1 year renewal	renewal	1.04.16	75.00	75.00	
Driver 3 year Licence	New	1.04.16	235.00	242.00	1.02.17
Driver 3 year renewal	Renewal	1.04.16	185.00	185.00	

Certificate of Compliance	1.02.11	8.00	10.00	1.04.17
Transfer of Licence/Change Vehicle	1.02.14	25.00	30.00	1.04.17
Duplicate Items	1.02.14	10.50	12.00	1.04.17
New Identity Card	1.02.14	10.50	12.00	1.04.17
New Licence Plate	1.02.16	13.00	13.00	
#Test Fee ..	1.02.16	50.00	50.00	
#Re-test Fee	1.02.13	35	35.00	

Private Hire Vehicle:	New	1.02.16	195.00	200.00	1.02.17
	Renewal	1.02.16	160.00	160.00	
PH Driver 1 year	New	1.04.16	110.00	115.00	1.02.17
PH Driver 1 year	Renewal	1.04.16	75.00	75.00	
PH Driver 3 year Licence	New	1.04.16	235.00	242.00	1.02.17
PH Driver 3 year renewal	Renewal	1.04.16	185.00	185.00	
PH Operator			<b>1 year</b>	<b>5 year</b>	
1-5 vehicles		1.04.16	175.00	495.00	
6-10 vehicles		1.04.16	245.00	550.00	
11-20 vehicles		1.04.16	460.00	670.00	
21-30 vehicles		1.04.16	595.00	745.00	
Private Hire Vehicle:					
#Test Fee		1.02.16	50.00	50.00	
#Re-test Fee		1.02.13	35.00	35.00	
Certificate of Compliance		1.02.11	8.00	10.00	1.02.17
Transfer of Licence/Change Vehicle		1.02.14	25.00	30.00	1.02.17
Duplicate Items		1.02.14	10.50	12.00	1.02.17
New Identity Card		1.02.14	10.50	12.00	1.02.17
New Licence Plate		1.02.16	13.00	13.00	

# Subject to increases in fees from Resources (Facilities) being passed on.

**(C) Licences - Miscellaneous**  
(VAT Outside the Scope)

Auctioneers		1.02.16	42.00	43.00	1.02.17
Riding Establishments (plus Vets Fee)		1.02.16	100.00	103.00	1.02.17
Sex Establishments	New	1.02.14	2500.00	2500.00	
	Renewal	1.02.14	1900.00	1900.00	
	Variation	1.02.14	250.00	250.00	
	Transfer	1.02.14	125.00	125.00	
Street Traders		1.02.16	105.00	210.00	1.02.17
Street Traders (Occasional)		1.02.16	35.00	50.00	1.02.17
New Permit Plate		1.02.16	13.00	13.00	

Scrap Metal Dealers (3 year licence - charge effective from 1/12/13)

Collector: New	1.10.16	250.00	250.00	
Renewal	1.10.16	250.00	250.00	
Vary name/address	1.12.13	30.00	30.00	
Site: New	1.10.16	415.00	415.00	
Renewal	1.10.16	415.00	415.00	
Vary name	1.12.13	30.00	30.00	
Vary Site Manager	1.12.13	30.00	30.00	
Vary Site/Collector	1.12.16	165.00	165.00	
or add site				
Boats	1.02.16	45.00	45.00	
Boatman	1.02.16	25.00	25.00	
Miscellaneous duplicate items	1.02.14	10.50	12.00	1.02.17

(D) Licences - Gambling Act 200005 - Premises (Based on fee bands set by DCMS and  
determined by Licensing Committee)  
 See appendix.B for Gambling premise fees

## Appendix.B.

### APPENDIX 'B'

#### *Gambling Act 2005 Premises Licence Fee Structure*

Type of Premises	Provisional Statement Premises	New Application Premises	Annual Fee	Seasonal Annual Fee	Variation Application	Provisional Statement Application	Transfer	Re-instatement
Regional Casino	£8,000	£15,000	£15,000	£15,000	£7,500	£15,000	£6,500	£6,500
Large Casino	£5,000	£10,000	£10,000	£10,000	£5,000	£10,000	£2,150	£2,150
Small Casino	£3,000	£8,000	£5,000	£5,000	£4,000	£8,000	£1,800	£1,800
Converted Casino			£3,000	£3,000	£2,000		£1,350	£1,350
Bingo	£1,000	£2,500	£700	£700 pro-rata* min £300	£1,250	£2,500	£500	£500
Adult Gaming Centre	£600	£1,600	£700	£700 pro-rata* min £300	£800	£1,600	£400	£400
Betting (Track)	£950	£2,500	£1,000	£1,000 pro-rata* min £300	£1,250	£2,500	£950	£950
Family Entertainment Centre	£600	£1,600	£400	£400 pro-rata min £200	£800	£1,600	£300	£300
Betting (Other)	£600	£1,800	£500	£500 pro-rata* min £200	£900	£1,800	£300	£300

All premises: Fee for copy of Licence    £15 Fee to accompany notification of change of circumstances    £30
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Approved 4<sup>th</sup> April 2007