

Report to Regulatory Panel

Agenda
Item:

A.3

Meeting Date: 12 November 2014
Portfolio: Finance, Governance and Resources
Key Decision: Not Applicable:
Within Policy and
Budget Framework NO
Public / Private Public

Title: REVIEW OF CHARGES 2015/16 - LICENSING
Report of: Director of Governance
Report Number: GD 49/14

Purpose / Summary:

This report sets out the proposed fees and charges for areas falling within the responsibility of the Licensing Section of the Governance 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:	
Overview and Scrutiny:	
Council:	

CITY OF CARLISLE

To: The Members of the Regulatory Panel on 12 November 2014

REVIEW OF CHARGES 2015/16 **GOVERNANCE 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 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 2015

- 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. Licence fees cannot include an element of enforcement against unlicensed operators. The case of *Hemming v Westminster City Council* 2013 confirms this (See Para. 3).
- 2.3 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.
- 2.4 Recognition should be made of the risk that licensing income levels can be subject to market forces outwith 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..

- 2.5 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. HEMMING v WESTMINSTER CITY COUNCIL 2013

- 3.1 This case impacts on the costs that councils can recover through locally set licence fees and processes councils have in place to ensure fee setting is transparent and open to scrutiny. The original Administrative Court ruling was given in May 2012, but this was subject to appeal and it is the Court of Appeal judgement made on 24 May 2013 that has been established as the leading law on what costs can be taken into account when setting local licensing fees.
- 3.2 The key issue addressed was whether the licence fees set by Westminster City Council in respect of a particular type of licence, complied with the requirements of the European Services Directive 2009. The Services Directive makes it clear that licence fees covered by the Directive can only be used to recover costs as part of the authorisation process and should not be used to make a profit or deter service providers from entering the market.
- 3.3 The Court of Appeal specifically considered whether the cost of investigating and prosecuting those who operate without a licence, can be recovered through the licence fee paid by those operating legitimately. The court upheld the earlier decision of the Administrative Court, ruling that the fees set must not exceed the costs of administering the process. As such, the council is no longer able to include the cost of enforcement against unlicensed operators when setting the licence fee.
- 3.4 Whilst this particular judgement was made with regard to one particular type of licence, it is accepted that the ruling would apply to all licensing functions covered by the Services Directive.

4. 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. This amendment will, however, be brought in by regulations which have yet to be published.

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 4th 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 2015/16 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, e.g. Community Services in respect of tattooing, acupuncture, pet shops and vehicle testing. Planning & Housing Services issue licences in respect of houses of multiple occupancy.

4.2 Licensing Act 2003

4.2.1 Premises Licences & Club Premises Certificates

The total number of premises and club certificates currently licensed is 505 (509-2013/14). 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 2015/16. 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 £102,000 in 2015/16, 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 1486 personal licences issued (116 – 2013/14). The personal licence lasts for 10 years and the one off fee of £37 is determined by central government.

During the first year of licensing 443 personal licences were issued by this authority. They are all due to be renewed during 2015/16. The Government has yet to publish Regulations regarding the renewal process or the fee, so there is potential for additional income.

Based upon the current numbers of applications, it is estimated that there will be approximately 110 applications per year. This will generate an estimated income of £4,000 in 2015/16.

4.3 Vehicle and Driving 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 of Community Services before a licence is granted. Vehicles over one year old and under five years old are inspected twice a year and vehicles over five years old three times per year.

In 2007 the application criteria for licensing hackney carriages was amended by the Regulatory Panel. With effect from 1st August 2007, all new licences issued will be for wheelchair accessible vehicles only. There has been a slight reduction in the number of licensed vehicles in the last 18 months.

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 1st 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. I would propose an increase of 1% to the charge for non wheelchair vehicles and the charge for wheelchair accessible vehicles be increased by 5.4% this year. This increase should maintain the current level of income and will be repeated next year to bring the fees in line.

The fees for drivers and vehicles, which aim to generate income of £76,200 in 2015/16, are set out in Appendix A.

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. There has been a slight increase in the number of licensed private hire vehicles in the last 18 months.

The fees for drivers, vehicles and operators, which aim to generate income of £27,000 in 2015/16, 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 the Court of Appeal case *Hemming v Westminster* reported at para. 3 earlier in this report. Our previous fee included a considerable percentage for enforcing unlicensed operators, therefore as a result of the case, we can no longer include this element. The suggested charge aims to generate income of £3,800 in 2015/16, as set out in Appendix A.

4.5 Auctioneers

We only have one premise which requires licensed auctioneers. The suggested charge aims to generate income of £600 in 2015/16, as set out in Appendix A.

4.6 Pleasure Boats & Boatmen

The number of pleasure boats and boatmen has remained static in recent years. The suggested charge aims to generate income of £400 in 2015/16, as set out in Appendix A.

4.7 Scrap Metal Dealers

The Scrap Metal Dealers Act 2013 which commenced on 1st 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, therefore it will only be new application income that is received in the forthcoming two years.

The current fee was set by the Executive in September 2013 for a period of three years and will be reviewed in 2016. Income is dependant upon new applications only, however as a result of enforcement by Police and Licensing additional applications are expected.

The current charge expects to generate income of £1,000 in 2015/16, 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 £3,800 in 2015/16, is set out in Appendix A.

Gambling Premises and Machine Permits

The fee bands are set by central government and the Licensing Committee set their own fees within these limits, based upon full cost recovery of providing the licensing service. These fees were determined on 4th April 2007 by this committee and we continue to recover the full cost of providing the service and no change is recommended. There has been a slight reduction in the number of licensed premises in the last 18 months.

At the current level of fees, an estimated income of £14,000 will be received during 2015/16, 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.

The fee for a street trading permit, which aims to generate income of £3,000 in 2015/16, is set out in Appendix A.

4.10 Riding Establishments

The number of riding establishments has decreased in recent years.

The revised fee for these establishments, which aim to generate income of £400 in 2015/16, is 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 £236,200 in 2015/16 which is summarised in the table below:

Service Area	Revised Budget 2014/15 £	MTFP Target 2015/16 £	Original Estimate 2015/16 £	Shortfall or (Excess) over MTFP £	
Licensing Act 2003 - Premises	102,000	105,900	102,000	3,900	*
Licensing Act 2003 - Personal	4,000	5,200	4,000	1,200	*
Hackney Carriage (1)	76,200	75,200	76,200	(1,000)	
Private Hire (1)	17,900	17,700	27,000	(9,300)	
Sex Establishment	6,300	6,500	3,800	2,700	
Auctioneers	600	600	600	0	
Pleasure Boats	400	400	400	0	
Scrap Metal (<i>New</i>)	0	0	1,000	(1,000)	
Gambling Act 2005 – Lotteries	4,700	5,000	3,800	1,200	*
Gambling Act 2005 – Premises and Gaming Machines	17,000	17,700	14,000	3,700	*
Street Trading	2,900	2,900	3,000	(100)	
Riding Establishments	400	400	400	0	
Total	232,400	237,500	236,200	1,300	

* Fixed fees

(1) there are additional costs associated with increased taxi testing and a budget pressure of £6,700 has been included in the revenue budget considered elsewhere on the agenda.

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 1st February 2015, with the exception of the Scrap Metal Act fees which were determined by the Executive and became effective from 1st December 2013.

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.

Contact Officer: Jim Messenger

Ext: 7025

Appendices None
attached to report:

CORPORATE IMPLICATIONS/RISKS:

Chief Executive's – N/A

Community Engagement – N/A

Economic Development – N/A

Governance – The various statutes regulating the different types of licences impose certain procedures that must be followed prior to any increase in fees. Notwithstanding any decision taken by the Regulatory Panel to increase the fees, these procedures will have to be implemented where appropriate, and, if necessary, any suggestions reported back to the Panel.

Local Environment – N/A

Resources – The introduction of the charges suggested above is forecast to produce the receipts outlined in table 4.1 in a full year of £236,200 (although there is no guarantee that all licences will be renewed in 2014/15). This will create a pressure of £1,300 income against the MTFP target of £237,500. An additional expenditure pressure of £6,700 is also required due to additional costs associated with income generation from taxi testing.

The majority of the sources of income are set nationally and therefore not under the Council's control to increase. Nationally, fees under the Licensing Act 2003 have been subject to review by an Independent Licensing Fees Review Panel. 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. This amendment will, however, be brought in by regulations which have yet to be published.

Prepared by: J A Messenger, Licensing Manager

Appendix 'A'

LICENSING

	<u>Current charge</u> £	<u>Suggested Charge</u> from 1/2/2015 £	<u>Implementation Date</u>
1 (A) <u>Licences - Licensing Act 2003</u>			
<u>Premises</u> +			
(Based on non-domestic RV)			
Band A	70.00	70.00	24.11.05
Band B	180.00	180.00	24.11.05
Band C	295.00	295.00	24.11.05
Band D	320.00	320.00	24.11.05
Band E	350.00	350.00	24.11.05
<u>Personal</u> +			
Personal Licence	37.00	37.00	24.11.05

+ These Charges are currently set by the Home Office

(B) Licences - Public Transport**Vehicles****Hackney Carriages**

Hackney Carriage:	New	218.00	220.00	1.02.15
	Renewal	185.00	187.00	1.02.15
Hackney Carriage (whchair):	New	185.00	195.00	1.02.15
	Renewal	150.00	160.00	1.02.15
Hackney Carriage:				
*Driver	New	85.00	88.00	1.02.15
	Renewal	64.00	66.00	1.02.15
#Test Fee		48.00	48.00	1.02.13
#Re-test Fee		35.00	35.00	1.02.13
Certificate of Compliance		8.00	8.00	1.02.11
Plate Deposit		25.00	25.00	1.02.05
Transfer of Licence/Change Vehicle		25.00	25.00	1.02.14
Duplicate Items		10.50	10.50	1.02.14
New Identity Card		10.50	10.50	1.02.14
New Licence Plate		12.00	12.00	1.02.12

Private Hire Vehicles

Private Hire Vehicle:	New	178.00	185.00	1.02.15
	Renewal	146.00	152.00	1.02.15
*Private Hire Vehicle Driver:	New	85.00	88.00	1.02.15
	Renewal	64.00	66.00	1.02.15
Private Hire Operators:				
1-5 vehicles		130.00	135.00	1.02.15
6-10 vehicles		195.00	203.00	1.02.15
11-20 vehicles		360.00	375.00	1.02.15
21-30 vehicles		415.00	432.00	1.02.15
Private Hire Vehicle:				
#Test Fee		48.00	48.00	1.02.13
#Re-test Fee		35.00	35.00	1.02.13
Certificate of Compliance		8.00	8.00	1.02.11
Plate Deposit		25.00	25.00	1.02.05
Transfer of Licence/Change Vehicle		25.00	25.00	1.02.14
Duplicate Items		10.50	10.50	1.02.14
New Identity Card		10.50	10.50	1.02.14
New Licence Plate		12.00	12.00	1.02.12

*Inclusive of identity card

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

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

Auctioneers		40.00	41.00	1.02.15
Riding Establishments (plus Vets Fee)		94.00	97.00	1.02.15
Sex Establishments	New	2500.00	2500.00	1.02.14
	Renewal	1900.00	1900.00	1.02.14
	Variation	250.00	250.00	1.02.14
	Transfer	125.00	125.00	1.02.14
Street Traders		97.00	102.00	1.02.15
Street Traders (Occasional)		30.00	30.00	1.02.07
Plate Deposit		25.00	25.00	1.02.05
New Permit Plate		12.00	12.00	1.02.14
Scrap Metal Dealers (3 year licence - charge effective from 1/12/13)				
Collector: New		240.00	240.00	01.12.13
	Renewal	240.00	240.00	01.12.13
	Vary name/addr:	30.00	30.00	01.12.13
Site: New		400.00	400.00	01.12.13
	Renewal	400.00	400.00	01.12.13
	Vary name	30.00	30.00	01.12.13
	Vary Site Manager	50.00	50.00	01.12.13
	Vary Site/Collector or add site	100.00	100.00	01.12.13
Boats		42.00	44.00	1.02.15
Boatman		20.00	21.00	1.02.15
Miscellaneous duplicate items		10.50	10.50	1.02.14

(D) Licences - Gambling Act 2005

Premises

(Based on fee bands set by DCMS and determined by Licensing Committee)

See Appendix 'B' for Gambling Premises fees

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