

Report Title: Approval of Licensing Fees 2019/20
Report To: Licensing Committee **Date:** 14 February 2019
Cabinet Member: Councillor Linington
Ward(s) Affected: All
Report By: Tim Whelan - Director of Service Delivery
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Purpose of Report:

1. To approve the scale of licensing fees proposed within Appendix 1 to apply from 1 April 2019.

Officers Recommendation(s):

1. To approve the scale of licensing fees proposed within Appendix 1 to apply from 1 April 2019.
 2. That the Licensing Committee recommends to Council that it formally ratifies the fees.
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2 Reasons for Recommendation

- 2.1 To ensure that the licensing fees are approved by the Licensing Committee.

3 Information

- 3.1 Councillors will be aware that licensing fees should be set by the Licensing Committee and then ratified by Council. If the Licensing Committee approves the fees set out in Appendix 1 these will be reported to Council for ratification. The table below summarises the estimated financial impact of the fees proposed to apply from 1 April 2019 as detailed in Appendix 1. The table also shows the estimated licensing fees income.

Lewes District Council Services	Budgeted income estimate for 2018/19 £	Additional income forecast for 2018/19 £	2019/20 indicative income forecast £
Discretionary charges (i.e. where fees are set by Lewes District Council)			
Consent Streets (Street Trading)	6,100	0	6,000
Scrap Metal Licensing	2,000	0	2,000
Taxi Licensing	154,000	1,000	155,000
Gambling Act 2005	2,000	0	5,000
Caravan/HMO Licensing	2,000	0	2,000
Environmental Health Licensing	6,400	0	4,000
Animal Welfare	6,200	2,000	10,000
Total Discretionary Charges	178,700	3,000	184,000
Statutory charges (i.e. where fees are prescribed by Government)			
Licensing Act 2003	79,800	0	82,000
Total income estimates	258,500	3,000	266,000

- 3.2 The Committee are reminded that the licensing service operates on a self-financing, year-by-year basis except the Licensing Act which has statutory charges. This means that the Council has the discretion to set fees for these services on a cost recovery basis with appropriate adjustments for any over or under spend from the previous year. In the event that any one of these best estimates proves to be too wide of the mark revised fees will be calculated in order to comply with the statutory requirements and these would be brought back to the Licensing Committee.
- 3.3 The table above also lists those statutory services where fees and charges are prescribed by Government. Changes in the level of fees and charges set by Government are implemented as and when they are issued by the appropriate Department and communicated to service users through appropriate channels, e.g. through the Council's website.

- 3.4 Members will see from Appendix 1 the proposed fees for 2019/20. The Financial Performance of Licensing can be seen at Appendix 2.
- 3.5 Taxi Licensing warrants particular mention because the recent surge in applications has led to a surplus being generated (see Appendix 3) that needs to be re-invested back into the service. The primary reinvestment has been to recruit additional staff to meet the additional workload, the cost of which will be met from the current surplus. Officers will maintain this higher level of staffing all the time that the current level of demand warrants it, so that the service can be fully resourced and paid for by the trade. Over time the surplus will be fully utilised for reinvestment so that the annual fees can remain stable and not be affected by the vagaries of supply and demand.
- 3.6 Although all other licensing functions operate similarly on a cost recovery basis, the reality is that the low levels of demand preclude the setting of fees that are self-financing without making them unaffordable. Appendix 3 sets out the financial position for each class of licensing activity showing the estimated deficit at 1 April 2019.
- 3.7 If taxi fees are varied then there is a statutory process under section 70 of Local Government (Miscellaneous Provisions) Act 1976 in relation to private hire vehicle, operators and hackney carriage proprietor's licences. Whilst not a requirement for drivers licences we would normally follow the same process.
- 3.7 New legislation for Animal Welfare was introduced in October 2018 which has brought together a number of different statutes into one regime. It is known that there is additional work involved with risk assessments and fees are set based upon cost recovery. It is anticipated that there will be additional income resulting from Animal Welfare.

4 Financial Appraisal

- 4.1 The Licensing fees set out in this report form part of the Council's overall fees and charges review process for the setting of the General Fund budget and the council tax for 2019/20. The review has been carried out within the statutory framework which requires that fees received under one licensing regime must not be used to subsidise fees charged under another. Similarly the review has been carried out on a cost recovery basis without making fees unaffordable in the current economic climate and risking non-compliance. The financial effect of this year's annual review is to predict an increase in income of £7,500 that will be included within the budget to be proposed to Council on 25 February.

5 Legal Implications

- 5.1 The fees must be charged in accordance with the requirements of the particular legislation and the relevant case law. Members are asked to note that in terms of licensing fees some fees are set by central government and some are locally set. For example the Licensing Act 2003 gives the Council no discretion as the fees and charges are set by central government. Other legislation such as the Local Government (Miscellaneous Provisions) Act 1982

which covers street trading and sex establishments state that the Council may charge such fees as they consider reasonable.

5.2 In deciding what is reasonable case law, including *R v Manchester City Council ex parte King*, has clarified that reasonable does not imply a wide discretion but that the fees charged shall relate to the level of costs reasonably expected to be incurred in providing the service. Further the Council must take account of the European Services Directive 2006 (which does not strictly apply to taxi and gambling licences) which reinforces the principle to be applied to the setting of local fees and charges in that they shall be reasonable and proportionate to the cost of procedures and formalities and shall not exceed those costs.

5.3 Report viewed by Legal section on 1 February 2019 (IKEN 8000-MW).

6 Risk Management Implications

6.1 I have completed the Risk Management questionnaire and this report does not require a risk assessment because the issues covered by the recommendations are not significant in terms of risk.

7 Equality Screening

7.1 Equality analysis of our services is undertaken on a regular basis as part of a scheduled program.

8 Background Papers

8.1 Open for business: LGA Guidance on locally set licence fees.
<https://www.local.gov.uk/open-business-lga-guidance-locally-set-licence-fees>

9 Appendices

9.1 Appendix 1 - Proposed Licence Fees and Charges 2019/20.

9.2 Appendix 2 – Licensing Financial Performance

9.3 Appendix 3 – Licensing Financial Appraisal