

**Agenda Item No: 8**

**Report No: 178/13**

**Report Title: Approval of Licensing Fees**

**Report To: Licensing Committee      Date: 22 October 2013**

**Cabinet Member: Councillor Nicholson**

**Ward(s) Affected: All**

**Report By: Director of Planning & Environmental Services**

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**Purpose of Report:**

- 1 To approve the scale of licensing fees proposed within Appendix 1 to apply from 1 April 2014.
- 2 To approve the fees for the Scrap Metal Dealers Act 2013 to apply as from 1 October 2013.

**Officer's Recommendations:**

- 1 To approve the scale of licensing fees proposed within Appendix 1 to apply from 1 April 2014.
- 2 To approve the fees for the Scrap Metal Dealer Act 2013 as from 1 October 2013.
- 3 That the Licensing Committee recommends to Council that it formally ratifies the new fares.

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**1 Reasons for Recommendation**

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

**2 Information**

- 2.1 Officers have been aware, for a few years now, that practice amongst Local Authorities has varied insomuch as in some Council's licensing fees were set by Licensing Committees and in others, such as Lewes, licensing fees have been set by Cabinet.

- 2.2** Following some legal challenges to certain Local Authorities over fees in the Country in recent years, legal opinion is now suggesting that licensing fees should be set by the Licensing Committee and then ratified by the Council.
- 2.3** This is a departure from the Council's usual practice, but is considered a precedent step to avoid any future legal challenges against licensing fees.
- 2.4** If the Licensing Committee approves the fees set out in Appendix 1 these will be reported to Cabinet and reported to Council for ratification.
- 2.5** The table below summarises the estimated financial impact of the fees proposed to apply from 1 April 2014 as detailed in Appendix 1. The table also shows the estimated financial impact of changes in usage levels experienced during the current year, which are expected to continue into 2014/15.

<b>Lewes District Council Services</b>	<b>Budgeted income estimate for 2013/14 £</b>	<b>Additional income forecast 2013/14 £</b>	<b>2014/15 indicative income forecast £</b>
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**Discretionary charges (i.e. where fees are set by Lewes District Council)**

Taxi Licensing	96,200	0	95,500
Scrap Metal Licensing	-	6,000	1,500
Consent Streets (Street Trading)	-	0	5,000
	<b>96,200</b>	<b>6,000</b>	<b>102,000</b>

**Statutory charges (i.e. where fees are prescribed by Government)**

Licensing	88,420	0	88,420
<b>Total income estimates</b>	<b>184,620</b>	<b>6,000</b>	<b>190,420</b>

- 2.6** In setting the licensing fees Officers have had particular regard to balancing the need to maintain charges at a level to recover any increase in costs (e.g. contractor and supplier inflation, pay inflation, fuel inflation) against the need to protect income levels in an economic environment that has led to a reduction in the usage of some of the Council's discretionary services.
- 2.7** In setting the fees for Consent Streets, Officers have recognised the desirability of the pedestrian precincts and encouraging regular traders through lower fees for longer periods. The fees reflect the current demand for street trading and the costs in administering the new consent street scheme.

- 2.8** The Committee will be aware that the Taxi Licensing services operate on a self-financing, year-by-year basis; the new Scrap Metal Licensing arrangements will operate on a similar basis. 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 recoveries 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 requirements of the various Acts of Parliament, and these would be brought back to the Licensing Committee.
- 2.9** 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.
- 2.10** Members will see from Appendix 1 that there have been very few changes to the proposed fees set for 2014/15. Officers are aware that in difficult financial times we need to ensure that businesses are not hampered by overly high charges and that the Council can justify any fees and charges should it be challenged. The fee set for Sex Establishments has been reduced following a legal challenge to Westminster City Council, but as Lewes District currently has no such licensed premises, we currently have no fee income for this type of Licence.

### **3 Financial Appraisal**

- 3.1** The Licence fees set out here will form part of the overall fees and charges setting process, which will be reported to Cabinet in November.

### **4 Legal Implications**

- 4.1** In the past, all licensing fees have been set by Cabinet. Recent legal advice however has recommended that in future, the setting of all licensing fees, including taxi fares should be a function of the Licensing Committee. This is because The Local Authorities (Functions and Responsibility) (England) Regulations 2000 state that the function of determining the terms of any approval, consent, licence, permission or registration or of imposing any condition, limitation or other restriction on such licences etc should not be a function of the Executive (i.e. Cabinet).
- 4.2** The responsibility for fee and fare setting has always been somewhat of a grey area. Whilst the Regulations make it clear that determining the terms and conditions of any licence is the function of a Licensing Committee (unless delegated to Officers), the responsibility for setting the level of fees and fares was less clear. However, expert opinion in this field is now unambiguous and it is clear that the setting of licence fees/fares should also be the function of the Licensing Committee and not the Executive.

## **5 Sustainability Implications**

- 5.1** I have not completed the Sustainability Implications Questionnaire as this Report is exempt from the requirement because it is a budget report.

## **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** The equality screening process has been undertaken (reference AF30209) and a full screen was not necessary as there are no significant implications.

## **8 Background Papers**

- 8.1** There are no background papers to this report.

## **9 Appendices**

- 9.1** Appendix 1 - Proposed Licence Fees and Charges 2014/15 and also including Scrap Metal Licence Act 2013 Fees and Charges.