

Report to: Licensing Committee

Date: 18 January 2020

Title: Approval of Licensing Fees

Report of: Director of Service Delivery

Ward(s): All

Purpose of report: To approve the scale of licensing fees proposed within Appendix 1 to apply from 1 April 2021

Officer recommendation(s): (1) To approve the scale of licensing fees proposed within Appendix 1 to apply from 1 April 2021.

(2) That the Licensing Committee recommends to Full Council that it formally ratifies the fees.

Reasons for recommendations: To ensure that the licensing fees are approved by the Licensing Committee.

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1 Introduction

- 1.1 Licensing fees should be set by the Licensing Committee and then ratified by Full Council. The table at 2.2 summarises the estimated financial impact of the fees proposed to apply from 1 April 2021 as detailed in Appendix 1.
- 1.2 The current financial year has been extremely challenging following a nationwide lockdown in response to the virus pandemic on 23rd March 2020. Not only has this impacted many businesses adversely but it has had an impact on the service we offer with all face to face contact ceasing for a period of time.
- 1.3 Issues were experienced with the hackney carriage and private hire trade as the ability to access garages for MOT's, vehicle suitability tests and drivers medical checks was problematic due to many of these services temporarily closing. The majority of these services have subsequently restarted but it is taking time to collect fees as a result from the suspension of these activities.

2 Financial Overview

2.1 The table shows the estimated financial impact of changes in usage levels experienced during the current year, which has been impacted due to the global coronavirus pandemic.

2.2

Eastbourne Borough Council Services	Budgeted income estimate for 2020/21 £	Additional income forecast 2020/21 £	2021/2022 indicative income forecast £
Discretionary charges (i.e. where fees are set by Eastbourne Borough Council)			
Taxi Licensing	92,550	3,150	95,700
Environmental Health	3,000	2,800	5,800
Gambling Act 2005	18,250	-5,350	12,900
Animal Welfare	1,000	0	1,000
Total Discretionary Charges	118,750	-3,350	115,400
Statutory charges (i.e. where fees are prescribed by Government)			
Licensing Act 2003	103,900	-2,800	101,100
Total income estimates	218,700	-2,200	216,500

3 Financial Impact

3.1 The Committee are reminded that the taxi licensing service operate on a self-financing, year-by-year basis. Street trading and scrap metal licensing 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 spend from the previous years. 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 legal requirements and these would be brought back to the Licensing Committee.

3.2 Since 2017 the income received for taxi and private hire licensing has risen and due to efficiencies in workflow costs of running the service has reduced. The increased number of vehicles and drivers which has generated a year on year surplus at year end 2019/20 had accumulated to £52,924.

- 3.3 A number of measures are now being taken to address the surplus which includes the following. Utilising additional staff to undertake taxi and private hire enforcement, additional training for existing staff, increase in vehicle inspections and IT improvements to the licensing system.
- 3.4 It is anticipated that with an increased cost of running the service the surplus will be reduced. The effectiveness of these measures shall be brought back to committee in future fees and charges reports.
- 3.5 A Court of Appeal decision R v Wakefield City Council has determined that fees for the different licences should be used specifically for that purpose and that separate budget codes should be used. Three new budget codes have been created for vehicles, drivers and operators with income and costs charged against these codes.
- 3.6 The existing surplus has been collected across all licence types and it is necessary to distribute this surplus retrospectively based upon income received and the number of licenses issued over previous years in the absence of specific accounting. The surplus has been discussed with Finance and agreed that the following division is applied. Vehicles 55%, Drivers 40% and Operators 5%. Future fees and charges reports will report these areas separately.
- 3.7 The number of gambling premises operating in Eastbourne has reduced and resulted in lower receipts for licences.
- 3.8 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.
- 3.9 Members will see from Appendix 1 the proposed fees for 2021/22.

4 Financial appraisal

- 4.1 Should the revised fees be approved, then the reduction in budgeted income of £2,200 will be reflected in the final 2021/22 budget to be approved by Council in February 2021.
- 4.2 It should also be noted that the Government introduced an Income Recovery Scheme for Councils that have experienced reductions in fees and charges as a result of the pandemic. The scheme operates on the basis that Councils bear the initial 5% of their budgeted income and the Government reimburses them for 75% for the remaining losses. This scheme was due to finish at the end of March 2021, however, the Government has now announced that it will continue until the end of June 2021.

5 Legal implications

- 5.1 Licensing fees must be charged in accordance with the requirements of the particular legislation and the relevant case law. Members are asked to note that

for licensing fees some fees are set by central Government and some are locally set. For example, for street trading consent fees the Local Government (Miscellaneous Provisions) Act 1982 Schedule 4 para. 9 (1) states that the Council may charge such fees as they consider reasonable. The Local Government (Miscellaneous Provisions) Act 1976 section 53(2) controls the fees of hackney and private hire drivers' licences and states that the Council may demand such fees as they consider reasonable with a view to recovering the costs of issue and administration and section 70 of the 1976 Act provides a similar provision in relation to vehicle and operators licences.

- 5.2 For those fees that are locally set there are some limitations. In deciding what is reasonable case law has clarified that reasonable does not imply a wide discretion but that the fees and charge shall relate to the levels of costs reasonably incurred in providing the service. Further, Members must take account of the European Services Directive 2006 (which does not strictly apply to private hire/hackney and gambling licences) which reinforces the principles to be applied to the setting of local fees and charges in that such a process shall be reasonable, proportionate, non-discriminatory, justifiable, clear and transparent.
- 5.3 Members should note that case law has established that if there is any surplus or deficit in the fees generated in the previous financial year that must be taken into account when setting the following year's fees. Any surplus should be carried forward and applied to the same account in the following year.
- 5.4 The Legal Section considered this Report on 18 December 2020 (Iken-9756-MW).

6 Risk management implications

- 6.1 If the Council does not have an effective fee setting process that is subject to proper oversight by Councillors it will not be able to demonstrate that it has in place adequate means to safeguard council assets and services, and it could be subject to criticism from the council's external auditor or the public.

7 Equality analysis

- 7.1 It is not expected that the proposed amendments to fees and charges will impact on protected characteristics.

8 Environmental sustainability implications

- 8.1 There are no significant sustainability implications as a result of this report.

9 Appendices

- 9.1
 - Appendix 1 – Proposed Licensing Fees and Charges 2021/22

10 Background papers

- 10.1 None.