

Committee: Statutory Licensing Committee

Date of meeting: 10th December 2019

Report Subject: Gambling, Hypnosis & Film Classification License Fees 2020/21

Portfolio Holder: Statutory Licensing Committee

Report Submitted by: Lisa Griffin, Team Manager Commercial & Licensing

Report Written by: Lisa Griffin, Team Manager Commercial & Licensing

Reporting Pathway (Dates to be Entered)								
Directorate Management Team	Corporate Leadership Team	Portfolio Holder / Chair	Audit Committee	Democratic Services Committee	Scrutiny Committee	Executive Committee	Council	Statutory Licensing Committee
By 26/11/19								10/12/19

1. Purpose of the Report

1.1 To inform members of the proposed licence fees for the period of the 1st April 2020 to the 31st March 2021 for the following licensable activities:

- a) Gambling
- b) Hypnosis
- c) Film Classifications

The above fall to the Statutory Licensing Committee for scrutiny.

2. Scope and Background

Fee Review & Calculation

2.1 Certain licence fees are deemed to be non-statutory, in that local authorities can determine what, or whether, to charge. This report refers to the non-statutory licences falling to the Licensing Committee for scrutiny, namely

- a) Gambling
- b) Hypnosis
- c) Film Classifications

2.2 When setting and approving non-statutory licence fees, there are 2 main considerations to be taken into account, namely

- 1. The actual costs of producing that licence, and;
- 2. The adopted policies of the Authority in respect of fee income.

2.3 When calculating new or reviewing existing licence fee costs, there is a range of legislation and guidance around fee setting for local authorities that must be taken into account. These may include, for example, the following:

- 1 The Provision of Services Regulations 2009, which states that any charges provided for by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities;
- 2 The guidance contained in Open for business: Local Government Association (LGA) guidance on locally set fees, and the Department for Business, Innovation and Skills (BIS) Guidance for Business on the Provision of Services Regulations;
- 3 Appropriate case law – and in particular to *Hemmings v Westminster*.

2.4 Local Authorities incur various direct and indirect costs in the administration and enforcement of licences, including for example the following:

- 1 Implementation costs, including the costs of developing policies and setting fees, authorisation of officers, management of the licensing function etc.;
- 2 Direct staff costs, including on-costs, travel, staff training etc. and including the costs of any senior managers, licensing committees etc. directly involved in the licensing process;
- 3 Indirect costs that support the licensing function, such as general management functions, Legal, Organisational Development, Finance, customer call centres etc.;
- 4 Specialist equipment costs, particularly the use of specialist IT databases to record and report this work;
- 5 Any third party costs used for inspection and enforcement etc.

Information to support the determination of the above costs was obtained from the Resources Team, and hourly rates have been calculated taking account of issues such as annual leave etc. Many of these costs are shared with other activities across the team and the department, and are therefore may be charged on a pro-rata basis.

- 2.5 A full assessment of licensing costs was under taken in early 2018, when the licence steps and average time taken for each step, including the development of policies etc., were calculated.

In order to update these costs, the following steps have been taken as part of the preparation for this report:

- 1 The licence steps and average time taken for each step, including the development of policies etc. have been reviewed for accuracy;
- 2 Other costs such as IT costs have been reviewed to ensure they remain relevant, and;
- 3 The officer hourly rate and on-costs etc. have been reviewed by the Resources Team.

These calculated figures are based on costs calculated for 2019/20, as any pay award will not be finalised and other costs for 2020/21 cannot be fully calculated in time to be applied to the fee calculations for 2020/21.

- 2.6 Where the relevant Regulations stipulate a maximum figure a local authority is permitted to charge for the licensing of premises this maximum permissible figure has been provided in Appendix 1 to this report. Local authorities are permitted to charge a fee based on reasonable cost recovery up to this maximum, but not above. Where the costs of the authority exceed the amount they are able to charge, this cost must be borne by the Authority.

The maximum licence fees that we are permitted to charge are shown in column 1 of Appendix 1. The current fees that are being charged are provided in column 2.

- 2.7 The calculated fees for 2020/21 are presented in column 3 of Appendix 1 and the proposed fees are then presented in column 4. Where possible proposed fees are presented to take account of a full cost recovery position for the Authority wherever possible and where this doesn't result in an exceedance of the statutory maximum. All calculated fees have been reviewed and determined in accordance with the approach outlined above. Column 5 of Appendix 1 provides the variance in terms of any increase or decrease seen between the previous year's fees and the proposed future fees.

Gambling Licences

2.8 Gambling licences do not fall within the remit of the Provision of Services Regulations 2009, and both the administration and enforcement elements of the fee are therefore payable on application.

2.9 The Authority currently licences the following premises under the Gambling Act 2005:

Alcohol Licence Permit – 4

Club Machine Permit – 15

Betting Office – 10

Adult Gaming Centre – 3

The Alcohol Licence and Club Machine Permit fees are determined by Government, and do not therefore form part of this report.

The current licence fees are shown in column 2 of Appendix 1.

2.10 The proposed fees increase will affect just 3 existing premises in respect of their annual fees, as follows

Premises type	Number of premises	Existing annual fee	Proposed annual fee	Income change
Betting Office	10	£600	£600	£0
Adult Gaming Centre	3	£722	£724.35	£7.05

Very few applications for new licences, variations and transfers etc. are received, and no additional income is therefore expected from these sources.

Film Classifications

2.11 Under the Licensing Act 2003, Local Authorities may be asked to classify films for viewing. As licences issued under this legislation do not fall within the remit of the Provision of Services Regulations 2009, the administration and enforcement elements of the fee are payable on application.

2.12 This authority has not received a request for the classification of a film. However, other authorities in Wales have received such requests, and it therefore seems prudent to continue to have a fee structure in place.

2.13 The calculated fees are based on estimated timings, allowing for different lengths and types of film. However, these would need to be reviewed on the basis of experience should an application be received.

2.14 The proposed Film Classification Licence fees are also provided in Appendix 1.

2.15 No applications are expected, and there are therefore no budgetary implications in respect of these proposed fees.

Hypnosis Permits

2.16 Hypnosis Permits fall within the remit of the Provision of Services Regulations 2009, and the administration and enforcement elements of the fee are therefore payable separately.

2.17 This authority has not received a request for Hypnosis Permit in recent years. However, other authorities in Wales have received such requests, and it is therefore prudent to continue to have a fee structure in place.

2.18 The calculated fees are based on estimated timings, but would need to be reviewed on the basis of experience should any application be received.

2.19 The proposed Hypnosis Permit fees are also provided in Appendix 1.

2.20 No applications are expected, and there are therefore no budgetary implications in respect of these proposed fees.

General

2.21 Local Authorities are not required in law to offer refunds, although case law makes clear that refunds may nevertheless be expected in some cases. In order to be fair to licence applicants, the following steps are proposed

a) Where an application is withdrawn by the applicant prior to inspection or activities other than application and fee receipt, an administration fee of £25 will be charged (covering any advice, application receipt and refund costs);

b) Where the enforcement element of the fee is payable on application, but a licence is refused, the enforcement element of the fee will be refunded (thereby placing applicants in a similar position whether or not the Provision of Services Regulations 2009 apply).

2.22 Unless otherwise specified in Appendix 1, the following general charges will be made

a) Copy of licence - £25

b) Administrative changes to a licence and licence records - £50

These costs will include the costs of giving advice, recording the request and processing the payment as well as the work directly required.

2.23 Local authorities are not obliged to charge the maximum they have calculated as a reasonable cost recovery level. A lower fee can be charged, but the difference between this lower fee and the cost recovery level must be borne by the authority and cannot be re-charged to other businesses. Local Authorities may choose to charge a lower fee for a number of reasons, for example where

- (i) The new fee is significantly higher than the previous fee level, and a graduated increase is considered fairer to businesses,
- (ii) The fee is high and would adversely affect small businesses, or
- (iii) The fee could deter businesses from becoming licensed, and it is more cost effective to reduce fee levels than meet the considerable costs of investigating and enforcing in respect of unlicensed businesses.

Members may wish to consider whether there is a case for the reduction of any gambling licence fee charged by the authority for the forthcoming year.

3. **Options for Recommendation** *To include Recommendation(s) / Endorsement by other groups, e.g. CMT/Committees/Other groups)*

3.1 That Members consider the proposed licence fees for 1st April 2020 – 31st March 2021 and confirm whether:

- 1. They approve for the consultation exercise the proposed fees as stated for 2020/21, OR,
- 2. They recommend for the consultation exercise an alternative fee structure for 2020/21.

4. **Evidence of how does this topic supports the achievement of the Corporate Plan / Statutory Responsibilities / Blaenau Gwent Well-being Plan**

4.1 This report relates to the statutory duties and responsibilities of the Authority. Links to the Corporate Plan and the Well-being plan are covered in any reports implementing or varying any area of work delivered by the Licensing Team, and there are therefore no direct links to this report.

5. **Implications Against Each Option**

5.1 ***Impact on Budget*** (short and long term impact)

This report reflects work carried out by the Licensing team within existing resources, and the new fee structure is expected to bring about a minimal increase in income for the financial year 2020/21 as outlined above in this report.

5.2 ***Risk including Mitigating Actions***

The main risk to the Authority is reputational should efficient and effective licensing enforcement not be sufficiently funded and delivered.

5.3 ***Legal***

This report relates to the statutory powers and responsibilities of the authority, and there are therefore no significant legal impacts.

5.4 ***Human Resources***

This report reflects work carried out by the Licensing team within existing resources, and there are therefore no additional staffing/workforce implications.

6. **Supporting Evidence:**

6.1 ***Performance Information and Data***

The evidence upon which these proposed fees are based will be retained for 7 years in case of queries or judicial review.

6.2 ***Expected outcome for the public***

The proposed full cost recovery position would allow for the continued provision of the licensing function.

6.3 ***Involvement*** (consultation, engagement, participation)

There is a legal requirement to consult with trade and other relevant parties in respect of the proposed fee review for certain licensable activities such as those covered by the Gambling Act 2005. Following the approval by members of the proposed fee structure outlined in this report a consultation exercise will be undertaken in respect of all fees identified in this report the results of which will be fed back to the relevant Licensing Committee for approval prior to the final determination of the fee structure for 2020/2021.

Relevant internal parties such as Resources and the Licensing Officers responsible for undertaking the work relevant to this report have been engaged at various points throughout the review process.

6.4 **Thinking for the Long term** *(forward planning)*

The proposed full cost recovery position would allow for the continued provision of the licensing function.

6.5 **Preventative focus**

The proposed full cost recovery position would allow for the continued provision of the licensing function.

6.6 **Collaboration / partnership working**

Relevant internal parties such as Resources and the Licensing Officers responsible for undertaking the work relevant to this report have been engaged at various points throughout the review process. There were no other collaborative or partnership working opportunities identified during the fee review.

6.7 **Integration** *(across service areas)*

The approval of the proposed licensing fees will allow the Licensing Team to continue to deliver its statutory duties and responsibilities.

6.8 **EqlA** *(screening and identifying if full impact assessment is needed)*

No adverse impact identified.

7. **Monitoring Arrangements** *State how the work will be monitored e.g. through scrutiny or directorate performance management arrangements*

7.1 The Licensing team will continue to monitor gambling fees and report to future committees.

8. **Background Documents / Electronic Links**

None