

**Committee: Planning, Regulatory and General Licensing Committee**

Date of meeting: 10<sup>th</sup> December 2019

Report Subject: Taxi & Other Non-Prescribed License Fees 2020/21

Portfolio Holder: Planning, Regulatory and General Licensing Committee

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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 1<sup>st</sup> April 2020 to the 31<sup>st</sup> March 2021 for the following licensable activities:

- a) Scrap Metal Dealers
- b) Sex Establishments
- c) Street Trading
- d) Taxis

The above fall to the Planning, Regulatory and General 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 Planning, Regulatory and General Licensing Committee for scrutiny, namely:

- a) Scrap Metal Dealers
- b) Sex Establishments
- c) Street Trading
- d) Taxis

Further general information relating to Licensing and the licenses outlined above can be found here:

<https://www.blaenau-gwent.gov.uk/business/licences-permits/>

<https://www.gov.uk/browse/business/licences>

- 2.2 Certain licence fees are deemed to be non-statutory, in that local authorities can determine what, or whether, to charge. This applies to the above licensable activities outlined in 2.1. 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 for Scrap Metal Dealers, Sex Establishments and Street Trading Fees and in Appendix 2 to this report for Taxi Fees. 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 and 2. The current fees that are being charged are provided in column 2.

- 2.7 The calculated fees for 2020/21 for Scrap Metal Dealers, Sex Establishments and Street Trading are presented in column 3 of Appendix 1 and the proposed fees are then presented in column 4. The calculated fees for 2020/21 for Taxis are presented in column 4 of Appendix 2. Additional information has been provided for the calculation of Taxi Fees in column 3 of Appendix 2. Column 2 provides information in respect of the funding gap between the proposed fee that was put forward for 2019/20 and the fee which was finally approved. The impact of the funding gap is considered later in this report under the section specifically related to Taxis.
- 2.8 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 earlier in this report. 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.

### **Scrap Metal Dealers**

- 2.9 Scrap metal licences fall within the remit of the Provision of Services Regulations 2009, and the administration and enforcement elements of the fee are therefore payable separately.
- 2.10 Dealer and Collector licences are both relatively straight-forward, in that they involve similar amounts of work regardless of the size of business. No differentiation has therefore been made for either type of licence in respect of the licence fees charged.
- 2.11 The proposed Scrap Metal Licence fees are provided in Appendix 1.
- 2.12 The authority currently has 4 Scrap Metal Sites and 9 Scrap Metal Collectors. 1 Scrap Metal Site and 2 Scrap Metal Collectors are expected to renew their three yearly licences during 2020/21 which will equate to a projected income of £1032.78 if the proposed fees are accepted. The proposed individual activity fees have decreased in a number of areas this year as a result of an increase in the total number of licences issued which means that the pro rata costs per licence decrease. Increases and decreases in individual fees can be affected by the overall number of licences and also as a result of changes to processing activities (i.e. efficiencies in process should reduce time taken to action and thus impact on overall costs chargeable per licence).

### **Sex Establishments**

- 2.13 Sex Establishment licences fall within the remit of the Provision of Services Regulations 2009, and the administration and enforcement elements of the fee are therefore payable separately.
- 2.14 The Authority currently has no Sex Establishment premises, although applications in respect of sex shops have occasionally been received in the past. The proposed fees are therefore based on estimated timings, but would need to be reviewed on the basis of experience should any application be received.
- 2.15 Sex Shop applications have proven relatively un-controversial in the past. However, more of a consultation response would be anticipated in respect of a sex cinema, and considerable controversy could arise with an application for a sex entertainment premises such as a lap-dancing club. Although Local Authorities are not required to do so, separate fees have been calculated to take these differing expectations into account and to be fairer to those applications likely to take less resources in terms of officer administration and enforcement activities.
- 2.16 The proposed Sex Establishment Licence Fees are provided in Appendix 1.
- 2.17 No Sex Establishment licence applications are expected, and these proposals will therefore have no budgetary impact unless a new application is received.

### **Street Trading**

- 2.18 Street trading licences fall within the remit of the Provision of Services Regulations 2009, and the administration and enforcement elements of the fee are therefore payable separately.
- 2.19 There are two different types of street trading, as follows
- a) Permanent pitches and rounds
  - b) Short term/seasonal trading
- 2.20 Although Local Authorities are not required to do so, separate fees have been calculated to take these differing types of trading into account. This is intended to
- a) Be fairer to those businesses wishing to trade for just short periods of time in this Local Authority area, and;

- b) Encourage applications, thereby increasing income and reducing the need for enforcement.

- 2.21 The proposed Street Trading Licence fees are provided in Appendix 1.
- 2.22 There are 6 permanent street traders paying renewal fees, and the anticipated income for these will increase by around £500 per annum. Other fees such as for new applications and variation fees have also increased. In respect of other licence applications, for example, variations and transfers, these fees will see a minimal increase, and the overall budgetary picture will therefore be little more than an overall inflationary increase for these fees.

### **Taxis**

- 2.23 The Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act 1847 provides the legal framework for the licensing and regulation of vehicles, drivers and operators offering relevant taxi or private hire services.
- 2.24 The underpinning aim of the Taxi Licensing regime is to ensure the protection of public safety and as a result there is a need to ensure that there is an appropriate balance reached between adequate funding of the services that deliver this function whilst ensuring that fees are fair and proportionate.
- 2.25 The fees that were historically put forward for 2019/20 which were also developed using the method outlined earlier in this report were not approved in full. Therefore the fee income from this area of work for the current financial year is not operating on a cost recovery basis and has contributed to a significant budget pressure for this area. The current forecasted overspend against income (for all licensable activities), as at Month 6 of 2019/20, is £12,794, this is based on the forecasted income and the actual income to date. This information has been provided by the Resources Team whom has indicated that this is mainly due to income related issues.
- 2.26 The factors which affect the realised income targets will not only relate to the reduced fees, but will also include issues such as numbers of actual licensing applications being less than those which were predicted. Estimates of applications are difficult to determine as they are based on previous year's figures for new applications which may then not be realised. Estimates are also based on those existing licences which are due for renewal within the financial year in question but which may not go on to renew for a variety of reasons outside of the Council's control.

2.27 The approach to the calculation of the proposed fees for 2020/21 has been carried out in accordance with the method outlined earlier in this report. The proposed fees are provided on a cost recovery basis including both the costs associated with projected work for 2020/21 and a recovery element for the reduced charge in 2019/20. It is estimated that this will realise a returned income for the year of £59,006.88, of which, £4044 is the recovery element. An overview of this information is provided below:

Proposed Fees 2020/21	£59,006.88
Estimated Income	
Calculated Income (without recovery)	£54,762.88
Variance	£4044

2.28 The above figures are based on estimated new applications (having regard to previous year's figures) and potential renewals correct to the time of writing this report.

**General**

2.29 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 will be charged (covering any advice, application receipt and refund costs) as outlined in Appendix 1 and 2;
- 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).

2.30 Unless otherwise specified in Appendix 1 and 2, 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.

2.31 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 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
  - 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 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 taxi licence fees. 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 **EqIA** (*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 fees and report to future committees.

8. **Background Documents / Electronic Links**

None