



Report of:	Meeting	Date
Mark Billington, Corporate Director Environment	Licensing Committee	17 January 2023

## Review of Discretionary Licensing Fees and Charges 2023/24

### 1. Purpose of report

- 1.1 To provide Members of the Licensing Committee with information to assist them at a hearing.

### 2. Outcomes

- 2.1 To set the level of discretionary fees and charges for licences, permits, registrations and consents effective from 1 April 2023 for various licensing activities.

### 3. Recommendations

- 3.1 That the Senior Licensing Officer make arrangements to place a public notice in the press in respect of the proposed fees for licensed vehicles and private hire operators, in accordance with s.70 of the Local Government (Miscellaneous Provisions) Act 1976.
- 3.2 That the proposed fees and charges set out in **Appendix 1** be implemented from 1 April 2023.

### 4. Background

- 4.1 Wyre Council has a statutory responsibility for the administration of a wide range of licences, permits, registrations and consents and the regulation of those authorised to carry on licensable activities.
- 4.2 In many cases legislation provides a discretion for the council to levy an application fee and in some cases an annual fee, to recoup the costs of administering the applications. The basis of setting such fees is generally to achieve cost recovery.
- 4.3 Case law has confirmed that fees may reflect administrative and compliance costs, including that in respect of licensed drivers, but may

not include the costs of enforcement action against unlicensed drivers or premises.

**4.4** Fees were comprehensively reviewed in 2018 and further reviewed in 2020. However, since the last review the service has undergone a number of staff changes including increased costs associated with successive pay awards.

**4.5** Detailed process maps have been updated to reflect current functions performed within this area of service. As with previous versions their purpose is to outline who is responsible for performing a specific task within an overall process whilst accurately capturing the time involved. Additionally, costs incurred by the service to administer the various regulatory regimes have been captured with the help of the council's Financial Services Team.

**4.6** Discretionary fees for the new animal licensing regime were initially agreed in autumn 2018 and were last reviewed in 2020. However, relevant legislation and guidance has been amended quite significantly in order to drive up welfare standards and has had an impact on the resources necessary to administer the regulations. Thus, the process maps have been carefully reviewed and revised to more accurately reflect the costs involved in delivering the service.

**4.7** A number of councils have been challenged in recent years on their fee levels and the work undertaken this year provides a sound evidence base to justify the fees being recommended.

## **5. Key issues and proposals**

### **5.1 General**

**5.1.1** As referred to above, the council has seen an increase in staffing costs since the last review was undertaken. Members should also note that this review has been undertaken in accordance with the Local Government Association's 'Open for business' guidance on locally set licence fees and the regulations and guidance on the provision of services issued by government. These make it clear that "charges levied by a competent body on applicants under an authorisation scheme must be reasonable and proportionate to the cost of the 'procedures and formalities' of the scheme and must not exceed these costs." Sector specific guidance has also been considered where available.

#### **5.1.2**

Close attention has also been paid to recent relevant case law and particularly the following - *Hemming v Westminster*, *Cummings v Cardiff* and *R (on the application of Abdul Rehman, on behalf of the Wakefield District Hackney Carriage and Private Hire Association) v The Council of the City of Wakefield and The Local Government Association (Intervening)* [2019] EWCA Civ 2166.

**5.1.3** Members please also note that as part of Wyre's commitment to deliver efficiencies a number of elements of licensing work are being reviewed over the coming months with a view to achieving efficiencies so far as is reasonably practicable. Any identified efficiencies will be fully reflected in subsequent process mapping for each licence type.

## **5.2 Hackney Carriage and Private Hire Licensing - Driver licences**

**5.2.1** Ordinarily Wyre Dual Driver Licences are issued for three years. Members have previously resolved that from 1 April 2019 those drivers over the age of 65 who were required to submit annual medicals, would only be eligible for a one year licence, in accordance with section s.53 (as amended) of the Local Government (Miscellaneous Provisions) Act 1976.

**5.2.2** All process maps were closely considered and no changes have been made to them since the previous review as no further efficiencies or additional burdens were readily identified. Therefore, fees for all grants and renewals of dual driving licences have increased slightly in order to cover increased staffing costs. The proposed increases can be viewed in full at Appendix 1 of this report.

## **5.3 Hackney Carriage and Private Hire Licensing - Vehicle licences**

**5.3.1** All vehicle licences are issued for one year and are subject to the council's vehicle compliance test which includes a mechanical test to the MOT standard.

**5.3.2** All process maps were closely considered and no changes have been made to them since the previous review as no further efficiencies or new burdens were readily identified. Additionally, the weekly fleet reporting requirement has not been fully absorbed by any previously identified efficiencies and staffing costs have also increased since the previous review. Therefore, both private hire and hackney carriage vehicle licences will need to be increased to cover the additional costs.

**5.3.3** The £20 Unmet Demand Survey surcharge on Hackney Carriage vehicle licences was reintroduced from 1 April 2020. The surcharge had been suspended in 2019/20 owing to a small surplus which the council had previously accumulated owing to the income from additional applications submitted to authorise changes to licensed vehicles.

**5.3.4** The previous £25 surcharge was based on 160 applications per annum for hackney carriage vehicle licences, to generate sufficient funds to finance the currently ongoing triannual unmet demand survey. This was reduced to £20 to reflect the additional applications anticipated for vehicle transfers over the period following the previous review.

**5.3.5** In addition to the surcharge for the unmet demand survey, there is an element within the Hackney Carriage fee to reflect the work necessary

to survey and maintain the Hackney Carriage stands across the urban side of the borough which is not applicable to the private hire trade.

#### **5.4 Hackney Carriage and Private Hire Licensing - Private Hire Operator licences**

**5.4.1** Private Hire Operator's licences are typically issued for five years or for such lesser duration when necessary. The council had previously agreed three separate fee levels that were dependant on fleet sizes. However, the private hire trade had remained fairly constant over previous years with the majority of operations running small private hire fleets of up to ten vehicles and there was no longer a need for the two higher fee categories. Therefore, proposals for a single fee operator's licence were put forward and agreed at the last review.

**5.4.2** As is the case with driver and vehicle licences all operator process maps were carefully considered and no changes have been made to them since the previous review because no efficiencies were readily identified. Therefore, there has been an increase in fee to cover additional staffing costs that were not applicable during the previous review.

#### **5.5 Scrap Metal Dealer licences**

**5.5.1** These licences are issued for three years under the Scrap Metal Dealer's Act 2013 for mobile collectors and site licences.

**5.5.2** There are currently nine scrap metal dealer licences in force with three having recently expired. However, at the time of writing this report the council has received at least two renewal applications.

**5.5.3** Members should note that a new fee is being proposed to differentiate mobile collectors from licensed sites. The fee for this type of this licence is lower than that of a site licence because there is less work involved with processing applications and for their subsequent management thereafter. The initially proposed fee for a new licence has been set at £240 and £231 for the renewal of a licence. The site licence fee has increased slightly to reflect increased staffing costs. The cost of varying a licence of this type has remained the same.

#### **5.6 Second Hand Goods Dealer licences**

The County of Lancashire Act 1984 provides for the registration of second hand goods dealers in certain circumstances and attracts a one-off registration fee. The slight increase reflects the increase in staffing costs.

#### **5.7 Skin Piercing (various) licences**

The proposed increase reflects additional staffing costs only because no process efficiencies or new burdens have been identified during the review of the process map.

## **5.8 Street Trading Consent**

The council operate a consent scheme for traders wishing to engage in street trading in the borough. Each consent is issued for one year at a time. The increased fees are to meet the increase in staffing costs associated with this area of regulated activity.

## **5.9 Sex Shop/Cinema licences**

There are currently no retail outlets or cinemas in the borough licensed under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended. An increase in the fee is proposed to cover extra staffing costs, should an application arise.

**5.10** There are currently no venues in the borough licensed under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended. An increase in the fee is proposed to cover extra staffing costs, should an application arise.

## **5.11 Gambling Act 2005**

**5.11.1** The council is able to set application and annual fees for premises licences issued under the Act, but they are subject to a maximum level which is prescribed by central government. Permits and lottery fees are non-discretionary and set centrally.

**5.11.2** There are no changes proposed to the current fees. The prevalence of premises licensed for gambling (betting shops, adult gaming centres, family entertainment centres) remains fairly static, with no significant increase to the number of licensed premises, or intervention work required.

## **5.12 Licensing Act 2003**

**5.12.1** Licensing fees for activities that are regulated under the Licensing Act 2003 are not discretionary. The current fees and charges are determined by Central Government and unfortunately have not been reviewed since 2005 when the legislation was first implemented.

**5.12.2** The Government did make provision through the Police Reform and Social Responsibility Act 2011 to give Local Authorities the discretion to set locally based fees for licensable activities, but have yet to introduce the required secondary legislation to implement this power.

## **5.13 Animal Welfare Licensing**

**5.13.1** A review of the existing licensing regime has established that the current fees are insufficient to meet the actual costs associated with administering it. Thus, increases in fees are proposed for each activity covered under this area of service as per Appendix 1.

- 5.13.2** Inspection and compliance costs have been found to be comparable across a number of individual licensable activities involving animals and so the proposed fees retain the single fee structure for catteries, kennels, and dog day care. There are activity specific fees for the other licensable activities.
- 5.13.3** All time and motion studies have been revised to accurately capture the time spent on administering individual activities step-by-step. The proposed fee structure now reflects more accurately the anticipated application and inspection costs, plus the ongoing service management costs for years two and three, using the same formula that has been applied to all other animal licensing activities. Members should also note that consideration is being given to introducing a new fee that will cover the licensing of home boarding activities operating under a franchise based model. However, for now, this type of operation will remain within the flat fee that is applicable for all other home boarding licences.
- 5.13.4** The fee for a Zoo or Dangerous Wild Animal licence has also been increased to reflect the anticipated service management costs throughout the duration of licence. However, there are no registrations of either type within the Borough at the time of writing this report.

<b>Financial and legal implications</b>	
Finance	<p>The estimated income from taxi fees in 2023/24 is £88,845.</p> <p>The estimated income from general licensing fees in 2023/24 is £7,143.</p> <p>The estimated income from animal licensing fees in 2023/24 is £8,131.</p> <p>The estimated income from fees under the Gambling Act 2005 in 2023/24 is £23,000.</p> <p>The estimated income from fees under the Licensing Act 2003 remains reasonably static in 2023/24 at £85,000.</p>
Legal	<p>Fees must be set in accordance with the requirements of the relevant legislation and guidance.</p> <p>There is a risk of challenge by way of Judicial Review in cases where fees are set at an unreasonable or unlawful level.</p>

**Other risks/implications: checklist**

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

risks/implications	✓ / x
community safety	
equality and diversity	
sustainability	
health and safety	

risks/implications	✓ / x
asset management	
climate change	
ICT	
data protection	

**Processing Personal Data**

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

report author	telephone no.	email	date

List of background papers:		
name of document	date	where available for inspection
None		

**List of appendices**