

Report of:	Meeting	Date
Mark Broadhurst, Service Director Health and Wellbeing	Licensing Committee	29 November 2018

Review of Discretionary Fees and Charge 2019/20
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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 2019.

3. Recommendations

- 3.1 That the proposed fees and charges set out in **Appendix 1** to the report be implemented on 1 April 2019.
- 3.2 That a new Group 2 medical certificate will be required for each three year dual driver licence granted.
- 3.3 That licensed drivers over 65 years of age, will only be eligible for a one year dual driver licence, to run concurrent with their annual Group 2 medical.

4. Background

- 4.1 Wyre Council has a statutory responsibility for the administration and enforcement of a wide range of licences, permits, registrations and consents. In most cases the 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.
- 4.2 The basis of setting such fees is generally to achieve full cost recovery. Case law has confirmed that fees may reflect administrative and compliance costs, but cannot include the costs of enforcement against licensed or unlicensed drivers.

4.3 It has been four years since the council last carried out a full review of discretionary licensing fees and charges. There have been no fundamental changes to the service in this time and the fees have been monitored and reviewed to ensure reasonableness. It is important though to benchmark comprehensively periodically and Licensing and Finance Officers have worked closely throughout the summer to undertake this process.

4.4 Detailed process maps have been produced to ensure that the fee levels recommended, accurately reflect current working practices and costs.

4.5 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 recommended.

4.6 A table setting out the taxi fees set by our neighbouring authorities is attached at **Appendix 2**.

5. Key issues and proposals

5.1 General

The council has seen an increase in staffing costs since the last review was undertaken. However many areas of licensing work have been streamlined to produce efficiencies which has been reflected in the process mapping for each licence type.

The review has been undertaken in accordance with the Local Government Association's 'Open for business' guidance on locally set licence fees, which incorporates the principals in the 2006/123 EU Services Directive, that provide that "any charges which the applicant may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures and shall not exceed the cost of the procedures".

Regard has also been had to the recent relevant case law and in particular the Hemming v Westminster and Cummings v Cardiff cases.

5.2 Hackney Carriage and Private Hire Licensing - Driver licences

In most cases Wyre Dual Driver Licences are issued for three years. However licences may be issued for a shorter period if the Licensing Authority considers it appropriate in the circumstances of the case, in accordance with section s.53 (as amended) of the Local Government (Miscellaneous Provisions) Act 1976.

Currently Wyre Council requires drivers under the age of 45 to submit a certificate of fitness to the Group 2 standard on initial application and then every six years. At 45 they are then required to submit a medical every three years until their 65th birthday when they are required to submit an annual medical.

This has resulted in the identification of a number of drivers whose medicals do not run concurrent with their dual driver's licence. This necessitates monthly checks by officers to identify those whose medicals have expired mid-licence.

In order to further streamline the administrative process, it is proposed that from 1 April 2019, a new Group 2 medical will be required for all three year dual driver licences issued.

Conversely drivers who are aged 65 and over, will only be eligible for a one year licence to run concurrent with their medical.

The council has strengthened the checks it carries out to assess driver's fitness to hold a licence, which has increased the cost of this element of licensing. However, some of the additional costs have been mitigated by efficiencies in the application process, resulting in a proposed net increase of £23 for a three year licence.

5.3 Hackney Carriage and Private Hire Licensing - Vehicle licences

Vehicle licences are issued for one year and are subject to the council's vehicle compliance test.

There have been efficiencies introduced in the processing of applications, which have offset the increased establishment costs.

It is proposed that private hire vehicle licence fees will remain the same.

The council is still required to undertake an unmet demand survey every three years. Historically a £25 cost has been incorporated into Hackney Carriage vehicle licence fees to fund this work. However the council has accumulated a small surplus over recent years and so it is proposed to remove this element of the fee for the 2019/20 financial year and utilise the surplus when commissioning the 2021 unmet demand survey.

The council is currently looking at ways to promote the use of electric taxis and is exploring the options available to it to improve the infrastructure to facilitate this.

A one-off charge of £5 per vehicle licence issued in 2019/20 has been provisionally built into the fee structure to fund any additional survey work undertaken as part of this emerging work. Should the work not be undertaken then the 2019/20 fees will be amended to reflect the lower rate.

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

Private Hire Operator's licences are issued for five years. The vast majority of Wyre licence holders fall into the lowest category as they operate less

than ten private hire vehicles on their fleet.

The increase in operator fees reflects the additional costs incurred by the licensing authority during the lifetime of each licence, to undertake proactive and reactive work with operators.

5.5 Scrap Metal Dealers Licences

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

The council saw a considerable drop in the number of applicants to renew licences in 2016 and currently licences twenty-one scrap metal dealers. Fifteen of these are due to expire in 2019/20.

5.6 Second Hand Goods Dealer

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 proposed increase reflects the ongoing nature of compliance work undertaken with these traders.

5.7 Skin piercing etc.

There are a range of special treatments which involve skin piercing, being carried out by individuals who are required to register with the local authority under Section of the Local Government (Miscellaneous Provisions) Act 1982. This includes cosmetic piercing, tattooing and electrolysis etc.

There is a one off registration fee for individuals seeking authorisation for these activities.

The council has seen a steady increase in applicants in response to the increasing consumer demand for these services. This is generating additional work which is reflected in the proposed increase.

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.

5.9 Sex Shop/Cinema

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.

5.10 Sexual Encounter Venue (Lap dancing Clubs etc.)

There are currently no venues in the Borough licensed under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended.

5.11 Gambling Act 2005

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.

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

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.

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 unfortunately have yet to introduce the required secondary legislation to implement this power.

Financial and legal implications	
Finance	<p>The anticipated income from taxi fees is estimated to be £81,430.</p> <p>The estimated income from general licensing fees is circa £8,600.</p> <p>The estimated income from discretionary fees under the Gambling Act is £22,250 with a further estimated income of circa £5,390 from non-discretionary fees.</p> <p>The estimated income from non-discretionary fees under the Licensing Act 2003 remains static at circa £87,000.</p>
Legal	<p>Fees must be set in accordance with the requirements of the relevant legislation and in accordance with the 2006 EU Directive</p>

	There is a risk of challenge by way of Judicial Review in cases where fees are set at an unreasonable or unlawful level.
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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 an x.

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

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

Processing Personal Data

If the decision(s) recommended in this report will result in personal data being processed, a privacy impact assessment (PIA) will have been completed and signed off by the council's Data Protection Officer before the decision is taken (as required by the General Data Protection Regulations 2018).

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List of background papers:		
name of document	date	where available for inspection
Process mapping	November 2018	Licensing Office

List of appendices

- Appendix 1 – Proposed fees
- Appendix 2 – Comparison of taxi fees