

Report of:	Meeting	Date
Mark Billington, Corporate Director Environment	Licensing Committee	30 January 2020

<b>Review of Discretionary Licensing Fees and Charge 2020/21</b>
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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 2020.

**3. Recommendations**

- 3.1 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 2020.

**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, but the service has undergone a number of staff changes since then which have impacted on costs.
- 4.5 Detailed process maps have been updated to reflect current processes and quantify the time involved. In addition the costs incurred by the service to administer the various regulatory regimes have been quantified 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, but at that time the service was unable to fully quantify the resources required to administer the new regulations. The new regime has had over twelve months to bed in and the revised process maps now more accurately reflect the costs involved in delivering this service.
- 4.7 A number of councils have been challenged in recent years on their fee levels and the work undertaken this year once again provides a sound evidence base to justify the fees recommended.

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

### **5.1 General**

The council has seen a small increase in staffing costs since the last review was undertaken, following the recruitment of a new part-time compliance officer to replace the taxi licensing officer who retired. As part of Wyre's commitment to deliver efficiencies, a number of elements of licensing work have been further streamlined to produce efficiencies which are 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". Sector specific guidance has also been considered where available.

Regard has also been had to the recent relevant case law and in particular the 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 cases.

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

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.

Changes to processes such as this have realised some efficiencies which have been used to offset the additional staffing cost and facilitated a small decrease in the renewal fee for a one year licence.

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

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.

Efficiencies introduced in the processing of applications have offset some of the increased establishment costs. However the new weekly fleet reporting requirement cannot be fully absorbed by these efficiencies and both private hire and hackney carriage vehicle licences will need to be increased to cover these additional new costs.

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

The previous £25 surcharge was based on 160 applications per annum for hackney carriage vehicle licences, to generate sufficient funds to finance the tri annual unmet demand survey. This has been reduced to £20 to reflect the additional applications anticipated for vehicle transfers over the next two years.

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**

Private Hire Operator's licences are issued for five years. The council had previously agreed three separate fee levels that were dependant on fleet sizes, but given that the private hire trade has remained fairly constant over the last few years with the majority of operations running small private hire fleets of up to ten vehicles, there is no longer a need for the two higher fee categories and so these proposals are for a single fee for an operator's licence.

The fee increase which equates to just £14 per year, 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.

There were twenty-one scrap metal dealer licences in force on 1 April 2019, but fifteen of these will expire before 31 March 2020. The council has only received four renewal applications at the time of writing this report. The slight increase reflects the increase in staffing costs.

The Council has not to date received an application to vary a Scrap Metal Dealers licence but changes to the way that such application would be processed has significantly decreased the anticipated costs.

## **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**

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 15 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. 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.

## **5.10 Sexual Encounter Venue (Lap dancing Clubs etc.) licences**

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

### **5.13 Animal Welfare Licensing**

A review of the first year under the new licensing regime has established that the initial fees set in 2018 were insufficient to meet the actual costs associated with the new regime.

Inspection and compliance costs have been found to be comparable across a number of individual licensable activities involving animals and so the proposed fees include a single fee structure for catteries, kennels, dog day care and dog breeding, with activity specific fees for the other licensable activities.

The initial fee for exhibiting animals had been set deliberately low and did not include the management costs likely to be incurred in years two and three. This was a result of it being a completely new area of responsibility for the council. The previous regulatory regime involved a single registration fee payable to the County Council and was therefore not within the remit of this authority.

The council did not get any responses from the four keepers of performing animals that were registered with Lancashire County Council when their grandfather rights expired and to date no licences have been issued to individuals who train or exhibit animals within Wyre.

The proposed fee 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.

The increase in the fee for a Dangerous Wild Animal licence has also been increased to reflect the anticipated service management costs in the second year of the licence although there are not currently any of these licences in force in the borough.

<b>Financial and legal implications</b>	
Finance	<p>The anticipated income from taxi fees is estimated to be circa £93,230.</p> <p>The estimated income from general licensing fees is circa £5,110.</p> <p>The estimated income from animal licensing fees due in 20/21 is circa £11,370.</p> <p>The estimated income from fees under the Gambling Act 2005 is circa £25,240.</p> <p>The estimated income from 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 the 2006 EU Directive.</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 an X.

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

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

## **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 3<sup>rd</sup> 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.

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<b>List of background papers:</b>		
name of document	date	where available for inspection
None		

### **List of appendices**

Appendix 1 – Proposed fees