

Report for: Regulatory Committee 20th November 2018

Title: Review of Fees and Charges 2019-20 - Licences

Report

authorised by: David Murray – Interim Director of Environment and Neighbourhoods

Lead Officer: Daliah Barrett

Ward(s) affected: ALL

Report for Key/

Non Key Decision: Key.

1. Describe the issue under consideration

- 1.1. The Council's income policy, requires an annual review of the level of the fees and charges levied upon service users. The aim of the review, is to ensure that income generated ensures full cost recovery.
- 1.2. Cabinet will consider changes to a number of fees and charges at their meeting on 12th February 2019, however a small number of items (relating to certain approvals, consents, permits and licenses) cannot be made by the Executive and are, therefore, reserved for consideration and decision by the Council's Regulatory Committee.
- 1.3. This report sets out the proposed fees for those licensing regimes where the Council has the power to set its own fees for 2019/20. The proposed fees will enable the Council to recover its costs in managing and administering these licensing regimes.

2. Cabinet Member Introduction

- 2.1. It is important that, as part of our on-going financial planning, we comply with the Council's policy to review annually our fees and charges taking account of issues such as the general economic climate and the Council's overall financial position.
- 2.2. Taking all relevant factors into account, I believe that the increases in fees and charges proposed in this report are appropriate.

3. Recommendations

- 3.1. To approve the increases to the Council's licensing fees and charges, as set out in the attached Appendix A, with effect from 1st April 2019.
- 3.2. That members approve the street trading fees for adoption as shown in Appendix 1. Once agreed the fees will be subject to a further public notice for the adoption.

4. Reason for Decision

- 4.1. It is a requirement of the Council's income policy to review fees and charges annually. The financial position of the Council supports the view that levels of fees and charges should be maximised commensurate with the full recovery of costs, taking into account all relevant factors including the effect on service users and any consequent demand for services. Fees/charges are required to be set correctly so as

to comply with the requirements of the Provision of Services Regulations 2009, based on the EU Services Directive. Under these regulations any charges which applicants incur under a licensing 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. Failure to do this could result in the Authority levying a fee that is subsequently considered to have been set unlawfully.

- 4.2 It is a requirement of the London Local Authorities Act 1990 that fees are reviewed to ensure that fees are set to cover the full cost recovery to the Local Authority. The Supreme Court case of (*R (Hemming and Others) v Westminster City Council*) concluded that the amount of the fee is required to be determined every year and further to that a Local Authority was precluded from making a profit from the licensing regime.

5. Alternative options considered

- 5.1. This report summarises the need for an inflationary only increase for 2019/20. Benchmarking has been carried out on Massage and Special treatment fees. There was an extensive review of the Street trading fees in 2017 and it is planned for a further review to be undertaken on 2020, therefore only an inflationary increase is appropriate at this time to ensure that we are maintaining full cost recovery. The number of applications have remained static.

6. Background information

- 6.1. The Regulatory Committee have responsibility for the determination of certain specified fees and charges, namely:

- Fees for applications for Special Treatment Licensing under the London Local Authorities Act 1991.
- Fees for applications for Street Trading under the London Local Authorities Act 1990
- Fees for applications for Animal Activities Licensing are normally included but are subject to a separate report this year due to the new regulations coming into effect in October 2018.
- Fees for applications for Hypnotism, Sex Shops, Sexual Entertainment Venues, Scrap Metal & Motor Salvage Operators licences.
- Gambling Act 2005 and Licensing Act 2003.

- 6.2. The requirement or ability to levy a fee/charge for these matters are provided for in statute, either being set down as a fixed amount (statutory prescribed) that the Council cannot vary/set, or by providing the authority with the power to set a fee/charge in accordance with the requirement of the legislation (e.g. up to a maximum amount, or cost recovery only, or reasonable cost etc.) (statutory discretionary).

- 6.3 This report meets the requirements of the Council's external income policy for the 2019-20 financial year and as such contains details of the current and proposed levels of fees and charges to take effect from 1st April 2019. Appendix A contains the

full details of current licensing fees and charges, the proposed charge and corresponding increases.

- 6.4 Officers have noted the comments made at this committee in February 2016 regarding applying suitable rounding to proposed changes in fees and charges, and the figures presented in this report reflect that principle.

7. Contribution to strategic outcomes

- 7.1. The Council also has a set of strategic and policy objectives, and fees and charges should be set in accordance with such objectives.
- 7.2. The principles underpinning the Council's external income policy are that all fees and charges are reviewed annually and income is maximised within current service and policy objectives. The competitiveness of the market in which the service operates and the effect of price on demand and overall income yield should be considered. Some services are restricted to cost recovery.
- 7.3. As a minimum, fees and charges should be increased by a minimum of RPI (annual average as at October 2018 is 2.6%). However, some charges remain unchanged from 2018-19 as these charges are already set to the statutory maximum.

8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Chief Finance Officer

- 8.1 In general fees and charges recover some or all of the costs of services from users. Inflationary increases are proposed to all Licensing processes for 2019/20 fees and charges that are not set statutorily, in order to maintain cost recovery performance.

Estimated financial effect arising from the implementation of the 2018-19 fees and charges rates as set out in this report (assuming no impact on volumes) is an increase in income of approximately £1335 in relation to Massage and Special Treatment licence fees.

Assistant Director of Corporate Governance

- 8.2 The Assistant Director of Corporate Governance has been consulted in the preparation of this report and advises as follows:

8.2.1 There are a variety of legislative powers that entitle the Council to charge fees for different licensing activities. In some instances, the Council has no discretion as to the level of the charge. In other cases, the specific legislative provisions allow authorities to decide whether to charge and how much.

8.2.2 Regulation 18(4) of the Provision of Services Regulations 2009 requires that any charges that the Council imposes must be reasonable and proportionate to the costs of the procedures and formalities under the licensing scheme and must not exceed the cost of those procedures and formalities.

8.2.3 In reviewing fees and charges, services need to demonstrate that they have had due regard to the overarching Public Sector Equality Duty as set out in the Equality Act 2010.

8.2.4 Certain fees may not be set by the Cabinet. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 provides that decisions on certain approvals, consents permits and licenses (for example premises licences; licenses for street trading) cannot be made by the Executive (Cabinet). Likewise charges for such approvals, consents, permits and licenses may not be made by the Cabinet. These fees will be set by the Regulatory Committee and are the subject of this report.

Equalities

8.3 The Council has a public sector equality duty under the Equalities Act (2010) to have due regard to:

- tackle discrimination and victimisation of persons that share the characteristics protected under S4 of the Act. These include the characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation;
- advance equality of opportunity between people who share those protected characteristics and people who do not;
- foster good relations between people who share those characteristics and people who do not.

8.4 The proposals within this report are within the RPI 2.6% and an EQIA screening tool has been prepared. These changes will have a low impact overall and are not expected to have a disproportionate impact on any protected groups.

9 Use of Appendices

Appendix 1 Schedule of Licensing Fees 2019-20

Appendix 2 Equalities Impact Assessment