

Report for: Regulatory Committee 16th January 2020

Title: Benchmarking & Review of Fees and Charges 2020-21 - Licences

Report

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Ward(s) affected: ALL

Report for Key/

Non Key Decision: N/A

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. 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. The committee is being asked to approve the fees and charges for 2020/21.
- 1.3. This report sets out the proposal to not increase fees for those licensing regimes where the Council has the power to set its own fees for 2020/21. The fees will still enable the Council to recover its costs in managing and administering these licensing regimes. There is also a proposal to impose an application fee for exempt massage and special treatment businesses. The types and frequency of applications has remained static in most cases.

2. Reason for Decision

- 2.1 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.
- 2.2 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.

3. Recommendations

That Regulatory Committee approve:

- 3.1. The fees for 2020/21 which are to remain as they were for 2019/20; and
- 3.2. The imposition of an application fee for Exempt premises for massage and special treatment.

4. Alternative options considered

- 4.1. An increase, for 2020/21, even if it is inflationary only will impact on the small businesses in the borough. Benchmarking has been carried out on Massage and Special treatment fees, Street trading fees and animal licensing, Haringey remains one of the most expensive boroughs An inflationary increase is not appropriate at this time as even this level of increase will impact on street trading fees significantly. At this time we are able to maintain full cost recovery. The number of applications have remained static, Street trading income is around £204,000 per year.
- 4.2. We have considered continuing not to charge for dealing with application for exempt massage and special treatment premises. However, benchmarking has shown that other boroughs make a charge for dealing with these. If we continue to make no charge we will continue incurring costs that we are not recovering. A proportionate charge is being proposed.
- 4.3 We cannot increase any other fees collected through the Licensing processes, which has an income target of £483,000. Licensing Act and Gambling premises are already set at Statutory maximum and make up approximately 65% of the fees collected. The Gambling income will decrease due to the changes in law on fixed odds betting terminals which will see betting shops closing down and annual fees no longer being paid to the Licensing Authority.

5. Background information

- 5.1 Throughout 2019 the Licensing Service has received various Members enquiries and traders complaints relating to street trading fees and the cost of these fees being high and disproportionate as well as prohibitive for businesses that wish to make use of the pavement for street trading and enhancing their business offer in the community. Complaints have been received from businesses such as;

Planet Organic – Member intervention on street trading costs.

Renaissance Myddleton Road- Member intervention on costs- Cllr Bull is requesting that a reduced start up period or other process be put in place.

The Prince Public House- Members and MPs enquiries asking for the fees to be reduced and the Council be more supportive of the business.

Crouch End Businesses – Members often stated that the cost of the street trading process was prohibitive for businesses.

- 5.2 Benchmarking has been carried out and is at App 1 with some narrative below to explain and compare figures.

5.3 Street Trading

The street trading fees across the boroughs are set quite differently. It is challenging to find a medium between the fees as they are set so differently. In Haringey we have set the fees to ensure we can provide a cost neutral service including the enforcement aspect of the workload. Our costs are lower than other borough as we do not run council led markets. We have had several businesses complain about our costings for displaying tables and chairs and therefore leading them to only use this licence seasonally as it is not affordable all year round for small businesses.

Our application fee for shop front and tables and chairs is in line with most neighbouring boroughs. However as we charge per square metre the monthly costs is higher than others. It should be noted that other Local Authorities charge up to a certain number of tables and chairs.

We would be putting our small businesses under a lot of financial strain raising the fees. We are increasingly finding more businesses displaying tables and chairs and shop fronts without a licence and with enforcement action being limited it is unfair to target businesses currently paying for licences.

5.4 Animal Activities Licensing

Our animal fees have only just been set according to new legislation. We are currently still processing the level of work it will take for each licence and also need to see what the charges from City of London Vets will be at the end of the financial year. Our application fee seems to be in line with two other Local Authorities but higher than four others. The second part of the fee is relevant to the number of visits and enforcement action required. We will be in a better position next year to see if this fee should be increased.

New applicants complain that the level of fees are very high and does not take into account the small doggy day care two dog operations which are still having to pay out in excess of £500 for a licence as their activity is now caught by the new legislation.

The revised fees to take into consideration the new regulations for animal activities which has seen the last two remaining pet shops in the borough close their doors as they were not able to afford the cost of a new licence under the new regime.

5.5 Massage & Special Treatment

The MST fees are set so differently between authorities that it is very hard to compare them. It should be noted the Haringey fees are more expensive in the long run as we charge for each therapist and what treatment that therapist is undertaking.

We note that Hackney charge a registration fee for exempt premises. This is something we are now proposing to adopt due to the work involved being time consuming. We are proposing to charge a registration fee which will be 50% of the application fee for whatever class of treatment the exempt premises is applying for. This would cover admin and any Health & Safety visit required. We would not be making a profit from imposing this charge.

5.6 Scrap Metal

Our fees are the lowest for site licenses among the boroughs benchmarked with. Our fee is currently £358 and highest found in a neighbouring borough was £909. We

cannot justify increasing to the highest figure, however we have considered a raise to come in line with the other local authorities, this would mean a possible increase of around 45%. However, this is not proposed currently because we do not have the enforcement figures to assess this at this time.

Our collectors licence fees are the second lowest amongst the boroughs we benchmarked with. Our fee is set at £256 and the highest at £701. Again without figures of any enforcement operations taken to inspect or enforce these licences we would not recommend increasing the fee. Over the years our licences have reduced drastically we started with 32 licences and currently have eight.

6. Governance

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).

7 Contribution to strategic outcomes

7.1 The fees contribute to Priority 4 of the Borough Plan –Economy

- A growing economy and thriving local businesses, supported by a community wealth building approach.

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

8.1 Chief Finance Officer

In general fees & charges recover some or all of the costs of services from users. No inflationary increases are recommended to all Licencing processes for 2020/21; for

those fees and charges that are not already statutory, apart from now imposing an application fee for Exempt applications for massage and special treatment.

This recommendation for fees and charges to remain as they are for year 2020/21; is in order to provide some support to local businesses who regard the current fee levels as being prohibitive to businesses.

8.2 Assistant Director of Corporate Governance

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

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.

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.

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.

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 determined by the Cabinet. These fees will be set by the Regulatory Committee and are the subject of this report.

The proposal not to increase the discretionary fees and to impose a new application fee for the exempt massage and special treatment applications do not give rise to any legal implications.

10 Equalities

10.1 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.

10.2 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.

11 Use of Appendices

Appendix 1 Benchmarking document

Appendix 2 Schedule of Licensing Fees 2020-21

Appendix 3 Equalities Impact Assessment screening tool