

Report for: **Licensing Committee 11th January 2022**

Item number:

Title: **Review of Fees and Charges 2022-23 - Licences**

Report

authorised by: Eubert Malcolm – Assistant Director – Stronger & Safer Communities

Lead Officer: **Daliah Barrett – Licensing Team Leader**

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 Licensing Committee. The committee is being asked to approve the fees and charges for 2022/23.
- 1.3. This report proposes an inflationary increase of fees for those licensing regimes where the Council has the power to set its own fees for 2022/23. The fees will enable the Council to recover its costs in managing and administering these licensing regimes

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. 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 annually 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 the Licensing Committee approve:

- 3.1. The fees for 2022/23 in the attached Appendix 1.

4.0 Alternative options considered

- 4.1 Fees have not been increased for the past two years as the Council has sought to support businesses and members have voiced concerns in the past about the cost of street trading. We cannot remain the same this year due to the cost of administering the Licensing scheme which is impacting on the Council's budget.
- 4.2 Licensing Act and Gambling premises are already set at statutory maximums and make up a significant proportion of the fees collected. The Gambling premises income is generally decreasing due to the changes in law on fixed odds betting terminals which has seen betting shops closing down and annual fees no longer being paid to the Licensing Authority for those closed premises.
- 4.3 Consideration has been given to reducing the discretionary fees such as street Trading and special treatment, but this has been discounted as our expenditure costs have not disproportionately reduced and if we were to reduce fees we would therefore, be subsidising the expenditure.
- 4.4 An increase greater than inflation has been considered but discounted due to the significant impact this would have on business and we are not permitted to make a profit in particular on Licensing fees.

5. Background information

- 5.1 The types and frequency of applications has remained static in terms of the traditional street trading pitches. We are seeing a slight fall in Massage and Special Treatment type premises due to the impact of the pandemic on businesses. Reductions in income for these various licences is offset by a reduction in compliance activities but administration formalities remain the same.
- 5.2 An RPI increase of 3.5% for the discretionary fees, is proposed for 2022/3. The traditional street traders will increase in their monthly invoices, so the increase is spread over the year. If approved The Massage and Special treatment type operators will be provided with sufficient notice of the increase in time for their renewal of licenses in September 2022.

Benchmarking has been carried out on Massage and Special treatment fees, Street trading fees and animal licensing (see 5.5 to 5.8). Haringey costs remain comparative to other boroughs, (see Appendix2). Other boroughs have chartered markets for which they are able to have various charging rates and a regular income and from this income they are able to subsidise the other street trading fees. In Haringey we do not have any chartered markets and therefore have to charge for full cost recovery across all street trading matters.

5.3 The Licensing Service has put in place a reduced fee for 'pop up markets' in particular the Regeneration inspired market at Tottenham Green East. The subsidy allowed for 6 trading days at an extremely reduced cost of £25. The Service can no longer sustain this subsidy and propose to put in place a charge of £40 for 3 days initial trading, thereafter a daily charge of £30. Other pop-up markets will be charged the flat daily charge of £30 per trader this reflects better the cost of administration.

5.4 The council has worked with business in the past year to ensure any refund or stopping of changes if that business has been impacted by Covid measures, we will continue to review this going forward This has impacted on the budget and in particular street trading which must be self-financing without creating a profit. We are able to make some cost recovery as a minimum with the inflationary only increase in charges

5.5 **Street Trading**

The street trading fees are set under the London Local Authorities Act 1990 and are set quite differently borough to borough. In Haringey we have set the fees to ensure we can provide a cost neutral service including the compliance aspect of the workload. Our costs are higher than some other borough as we do not run council led markets.

The Pavement licence process under the Business and Planning Act 2020 offers a streamlined quick and cheaper option for businesses to apply for external seating areas. The Act came into effect in August 2020 and Haringey has imposed the maximum application fee of £100 per application. These permits last until September 2022. The general effect of this has been a reduction in Licensing fee income. The £100 application fee for a Pavement licence does not cover the cost of administering and compliance of the licence requirement in this regard.

5.6 **Animal Activities Licensing**

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 compliance action required. This is set to cover the costs of administration and compliance. Compliance checks are carried out by the city of London due to the complex nature of this activity.

5.7 **Massage & Special Treatment**

The MST fees are set differently between authorities that it is very hard to compare them like for like. It should be noted the Haringey fees charge for each therapist and what treatment that therapist is undertaking.

5.8 **Scrap Metal**

Our collectors licence fees are the low in comparison. The fees reflect the cost of administration and compliance enforcement for these licences and therefore we would not recommend increasing the fees at this time, we currently have eight of these licences in total.

6. Governance

6.1 In accordance with Part Three Section B of the Constitution, the Licensing Committee has responsibility for the determining fees and charges under the Licensing Act 2003 and the Gambling Act 2005. In addition, the Committee exercises the functions which are stated not to be the responsibility of The Executive/Cabinet In Regulation 2 and Schedule 1, Paragraph B (Licensing and Registration) of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and in any Statute or subordinate legislation further amending these Regulations. This includes the following fees and charges:

- 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
- Fees for applications for Hypnotism, Sex Shops, Sexual Entertainment Venues, Scrap Metal & Motor Salvage Operators licences.

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.

7.2 The income from fees and charges help to manage demand and cover costs for providing services. Changes proposed to fee and charges will assist with the impact of the pandemic on service demand.

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

8.1 Chief Finance Officer

8.2 The recommendation is that for all non-statutory fees and charges to apply a 3.5% RPI increase in line with the wider Council's Fees & Charges for the year 2022/23. For all statutory fees and charges there is no increase in-line with the council not being able to vary/set price under legislation.

9 Legal

9.1 The Head of Legal and Governance has been consulted in the preparation of this report and comments as follows:

9.2 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.

9.3 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.

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

9.5 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. The EQIA screening tool is at Appendix 3.

9.6 There is no legal reason why the proposed fees and charges cannot be imposed..

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	Schedule of Licensing Fees 2022-23 Benchmarking document
Appendix 2	Benchmarking document
Appendix 3	Equalities Impact Assessment screening tool