

**Report for:** Licensing Committee - 4 January 2023

**Item number:** 7

**Title:** Review of Fees and Charges 2024-25 - Licences

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

**Lead Officer:** Daliah Barrett – Licensing Team Leader –  
Daliah.barrett@haringey.gov.uk

**Ward(s) affected:** All

**Report for Key/  
Non Key Decision:** Non-Key

## **1. Describe the issue under consideration**

- 1.1 The Councils 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 and that charges remain in line with increases being experienced in the cost of delivering services.
- 1.2 A small number of items relating to certain approvals, consents, permits and licences cannot be made by the Executive and are therefore reserved for consideration and decision by the Council's Licencing Committee. That committee is being asked to approve the fees and charges for 2024 - 25

This report proposes an inflationary increase of fees for those licencing regimes where the council has the power to set its own fees for 2024 - 25 the fees will enable the council to recover its costs in managing and administering these licencing regimes. There is one new charge being proposed for administrative procedures for the consideration of a location for a market. This is a growing request and will correlate with the Market Strategy that is being formulated.

## **2. Recommendations**

- 2.1 That the licencing committee approve fees set out in appendix 1:
  - i) An increase of 7% on existing discretionary fees for 2024 - 25
  - ii) The introduction of a new Market operator licence application fee as set out in section 5.7 of the report.
- 2.2 Note Licencing Act and Gambling Act premises are already set at statutory maximums and make up a significant proportion of the fees collected.
- 2.3 Pavement licence fees will be presented in a separate report following the Levelling up Act receiving royal assent in October 2023. Fees are stipulated in the Act. At the time of writing this report the Government has not released any regulations or guidance on the new regime. The temporary Pavement licence provisions remain in place under the Business and Planning Act 2020 (as amended).

## **3. Reasons for decision**

- 3.1 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 full cost recovery of costs taking into account all relevant factors including the effect on service users and any consequent demand for services. A licencing scheme must be reasonable and proportionate to the cost of all the procedures and formalities under the scheme.
- 3.2 The Supreme Court case of *Hemmings 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 licencing scheme.

#### **4. Alternative options considered**

- 4.1 Do nothing - this has been discounted as our expenditure costs have not disproportionately reduced and if we were not to increase fees we would be subsidising the licencing process.
- 4.2 Reduction in discretionary fees - 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 this expenditure, which is not permitted.
- 4.3 An increase in fees greater than inflation has been considered but discounted due to this not being cost neutral to do so and likely to result in a surplus which is not permitted and may impact negatively on businesses during the current financial climate.

#### **5. Background information**

- 5.1 Income received from fees and charges during 2023/24 continues to be affected by ongoing economic recovery following the pandemic. A number of income streams continue to be experiencing reduced demand, this may be due to a reduced number of businesses seeking licences. The Service is doing enforcement checks on businesses that were previously licensed but have not renewed licences.
- 5.2 The overall position on charging is that the Council must not charge for a service if legislation prohibits it from doing so. If legislation requires the Council to provide a service and to charge for it then we are required to do so. Charges may be set differentially, so that different locations and services being offered are charged differently. The Council cannot use these powers to make a profit, but should take into account the full cost of all aspects of the service provision when calculating the costs. The underlying principle behind the legislation is that one service should not be cross subsidising another as each service must be viewed as distinct for charging purposes.
- 5.3 An RPI increase of 7% for the discretionary fees, is proposed for 2024-25. The traditional street traders will see an increase in their monthly invoices so the increase will be spread over the year. Massage and Special treatment businesses will be provided with sufficient notice for the increase in fees at the renewal of licenses in September 2024.
- 5.4 Other boroughs have chartered markets for which they have funds made available for the street trading operations. This enables them to have various charging rates and specified teams that deal with street trading. Whilst Haringey is not a market borough but there is a commitment implement a market strategy to support more markets.

5.5 Central Government has also determined to increase the number of days per year a market can take place to 28 days a calendar year. All of these changes will result in an increase in workload for the Licensing Team. This will impact on licencing resources to keep up with demand in administering applications for temporary street trading licenses for these pop up markets.

5.6 In the past the Licencing Service has provided a subsidised fee for the traders at The various pop up market events that have been taking place across the borough, but the fees have not fully covered the cost of administration and it is therefore not sustainable, particularly as demand increases. The increase of 7% in line with inflation relates to the existing charges for one day market trading per stall holder and the three day market trader fee as well as the yearly market trader fee. These fees will not be interchangeable between pop up market locations. The traders will be able to apply for permissions per location.

5.7 The Council allows the market operators to run a market on the public highway without any direct charge being made to the market operator. This is not sustainable as various Services are consulted prior to permission being given. This involves officer time in undertaking assessment of the suitability of the location. There is a new fee proposed for the Market Operator to submit an application with supporting documents such as a plan, risk assessments and an event management plan of how the proposed location may be used to offer a temporary market. This will then be shared and consulted with Highways, Police, Transport for London Roads, Transport Planning and other internal services. The initial fee proposed is £175:00 for the application fee. The market operator makes their own financial charge/profit from each trader that registers their interest to trade at the various pop up market events.

## **6.0 Contribution to the Corporate Delivery Plan 2022-2024 High level Strategic outcomes.**

### **6.1 Placemaking and Economy**

6.2 **High level 1 - Towards an Inclusive Economy** - Haringey has a thriving and fair economy from which everyone benefits, supported by a community wealth building approach

6.3 **High Level outcome 2 - High Streets, Town Centres & Businesses** - Haringey's economy has resilient high streets & town centres at its heart, and businesses are supported to start and grow. The income from fees and charges help to manage demand and cover costs for providing services.

## **7.0 Carbon and Climate Change**

7.1 The Council is committed to updating its standard street trading conditions, so the following matters are included:

- Ban on single use plastic and polystyrene in street trading;
- Ban on the sale of plastic and helium balloons;
- Requirement and guidance on the use of sustainable food packaging, utensils, drinks containers and bags
- Traders encouraged to make use of litter bin for recycling.
- Commits to encouraging and providing guidance to street traders:
- Encourage traders to use sustainable sourcing of food and drink;
- Encourage traders to use sustainable sources of energy for their trading activities;
- Traders to have adequate receptacles in place to deal with customers' rubbish responsibly.

## **8. Finance**

**8.1** The recommendation is that for all discretionary fees and charges to apply a 7% RPI increase in line with the wider Council's Fees & Charges for the year 2024-25. The council in addition seeks to introduce a new Market operator licence application fee.

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. Head of Legal & Governance [Name and title of Officer completing these comments]**

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. The new market fee is in accordance with section 32 of the London Local Authorities Act 1990.

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

9.4 Regulation 2 and Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 provide that decisions on certain approvals, consents, permits and licenses (for example premises licences; licenses for street trading) cannot be made by the Executive. Likewise, fees and charges for such approvals, consents, permits and licenses may not be determined by the Council's Executive.

9.5 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 fees and charges that are the subject of this report.:

9.6 The fees and charges for 2024-25 are being increased by inflation and reflect the cost of service provision, therefore there is no legal reason why the proposed fees and charges cannot be imposed.

## **10. Equality**

10.1 The council has a Public Sector Equality Duty (PSED) under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share protected characteristics and people who do not
- Foster good relations between people who share those characteristics and

people who do not

10.2 The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty. Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

10.3 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. The legislation itself does not allow authorities to issue street trading to licenses to any one under the age of 17. The Council has no discretion in this regard.

## **11 Use of Appendices**

11.1 Appendix 1 -List of fees and charges showing 7% increase on discretionary fees.

A new fee proposed for an application to consider suitability of location for a pop up market event.

Appendix 2 – EQIA Screening tool