



Agenda item:

[No.]

Cabinet Member Decision

On 17th December 2009

Report Title. **Fee Setting for various Enforcement Services and Licences**

Report of Niall Bolger, Director of Urban Environment

Signed :

N Bolger 8th Dec. 09

Contact Officer : Daliah Barrett-Williams , Lead Officer Licensing

Wards(s) affected: **All**

Report for: **Key**

1. Purpose of the report

The European Union (EU) Services Directive will become law in the United Kingdom on 28 December 2009 and aims to open up the internal market for services by making it easier to find information, apply, be evaluated, and pay for certain types of licences, all electronically. This Authority has a number of processes which currently have no fee attached and for which we would not be compliant as this would prohibit an application being made. The affected application processes are sex establishment, zoo licences, riding establishments and hypnosis licence.

2. Introduction by Cabinet Member (if necessary)

No introduction – will be Member signing

3. State link(s) with Council Plan Priorities and actions and /or other Strategies:

3.1: Fee setting for the EU Services Directive is a legal requirement.

4. Recommendations

4.1 That the recommended fees in Appendix 2 be agreed for 2009/10.

5. Reason for Recommendation

5.1 The EU Service Directive is a legal requirement and the deadline for fee setting is 28 December 2009. Fees here are set for applications received this financial year. There will be a further report this year to set fees for all other licence fees for the the next financial year.

6. Other options considered

6.1. None have been considered.

7. Summary

7.1 This report seeks to set fees for licences for this financial year only so that we can comply with the EU Services Directive. None of the licences covered by this report are currently granted or applied for. Fees recommended comply with national guidance available.

8. Chief Financial Officer Comments

8.1 Under European Regulations the Council is required to publish charges for the areas specified in the report. There are not expected to be any direct budget implications as it is unlikely that any requests for licences with respect to these areas will be made

9. Head of Legal Services Comments

9.1 As stated, the European Union Services Directive comes into force on the 28th of December 2009. The fees proposed to be set, as outlined in this report, have been sourced through consultation with neighbouring boroughs and to ensure consistency of approach where possible. The setting of fees will enable the process envisaged by the EU Services Directive, namely the opening up of the services market, to take place and is an integral part of ensuring the process is ready for the go live date.

10. Equalities &Community Cohesion Comments

10.1. There are no implications arising from this report.

11. Consultation

11.1. There has been no consultation on the proposed fees.

12. Service Financial Comments

12.1. The fees proposed will not impact on budgets for this year.

13. Use of appendices /Tables and photographs

13.1. Appendix 1 National Guidance on Fee Setting under EU Service Directive

13.2. Appendix 2 Proposed Fees Table

14. Local Government (Access to Information) Act 1985

14.1. EU Service Directive – LACORS Guidance on Fee Setting

15 Background

15.1 The EU Services Directive is a European Community (EU) measure to open up the European Internal market to cross-border trade in services. It aims to break down barriers to cross border trade between all 27 EU Member States making it easier for service providers, in particular, small and medium sized enterprises, to:

- Set up business and offer services in other Member States; and
- Provide services temporarily and/or at a distance in other Member States.

15.2 The Directive aims to ensure that any licence applications, authorisations or administrative procedures that must be followed in order to establish a business in a relevant service sector are transparent and keep any burden on the business to a minimum. This basic concept also applies to the fees charged by local councils for approving licence applications, authorisations or other administrative processes.

15.3 The principle behind the EC Services Directive is to ensure that any processes for registrations consents, permits or licences that must be obtained in order to provide a service are non-discriminatory, justified, proportionate, clear, objective,

made public in advance, transparent and accessible. These principles also apply to the setting and charging of fees for relevant service areas.

- 15.4 The Local Authority Co-ordinating body for Regulatory Services (LACORS) has issued guidance to help councils ensure the fees set at a local level and charged to businesses meet the requirements of the Services Directive. This guidance is reproduced at Appendix 1.

Appendix 1 – LACORS Guidance on Fee Setting

Below are a number of factors issued by LACORS for Councils to consider when setting fees:

- **Administration** – This could cover basic office administration to process the licence application, such as resource, photocopying, postage or the cost of handling fees through the accounts department.
- **Initial visit(s)** – This could cover the average cost of officer time if a premises visit is required as part of the authorisation process. Councils will need to consider whether the officer time includes travel. It would also be normal to include 'on-costs' in this calculation. Councils will need to consider whether 'on-costs' include travel costs and management time.
- **Third party costs** – Some licensing processes will require third party input from experts, such as veterinary attendance during licensing inspections at animal related premises.
- **Management costs** – Councils may want to consider charging an average management fee where it is a standard process for the application to be reviewed by a management board or licensing committee. However, some councils will include management charges within the 'on-costs' attached to officer time already referenced above.
- **Local democracy costs** – Councils may want to recover any necessary expenditure in arranging committee meetings or hearings to consider applications.

Further enforcement costs could include -

- **Additional monitoring and inspection visits** – Councils may wish to include a charge for routine risk based visits to premises in between licensing inspections where this is standard for all premises. As with the initial licensing visit, councils can consider basing this figure on average officer time, travel and management costs as suggested above.
- **Enforcement costs** – Councils may want to consider how enforcement costs associated with complaints and working with non-compliant businesses are funded. The majority of enforcement activity will be aimed at ensuring compliance with the licensing regime to protect both the public from rogue service providers and the trade from unregulated competition and as such can be considered a valid licence fee expense. Enforcement costs can include advice provided to businesses. Any calculations for ongoing enforcement action will need to consider that some cases may result in prosecution as a last result and an element of these costs can be recovered through the court processes. However, this decision ultimately should be taken at a local level in consideration of council policies and financial procedures.

Appendix 2 – Recommended Fees

	Sex Establishment	Zoo Licences	Hypnosis Licence	Riding Establishment
Application fee	£2,500	£750*	£100	£200
Renewal fee	£1,800	£750*	£100	£160

*** In addition the full costs of any veterinary fees incurred will be recovered**

Zoo Licence

A Zoo licence runs for a four-year initial period from date of issue and six years thereafter. A fee of £750 reflects the cost of visits that will be required from the Veterinary Surgeon. Where additional veterinary costs are incurred these would also be recovered.

Sex Establishments

Sex establishments must be licensed under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Greater London Council (General Powers) Act 1986. The definition of sex establishment includes:

- Sex cinemas, at which R18-certificate films are to be shown.
- Sex shops, which are premises, vehicles or stalls used for selling, displaying or demonstrating sex articles (which may include R18-certificate videos and DVDs) or other things used in connection with sexual activity or acts of force or restraint associated therewith.
- Sex encounter establishments, which are premises at which performances, services; or entertainments are carried on, which are not unlawful but are concerned with sexual stimulation or exposure of genitalia (and which do not constitute sexual activity).

Riding Establishments

A riding establishment is "the carrying on of a business of keeping horses to let them out for hire for riding or riding instruction". Licences to keep a riding establishment are issued under the Riding Establishments Acts 1964 and 1970. A riding establishment licence runs for a 12-month period, renewable each year from 1 January.