

Licensing Fees and Charges 2024/25

Report of the Director of Place Management

1. INTRODUCTION AND PURPOSE OF REPORT

- 1.1 This report details, and seeks approval for, the proposed variations to the fee structure for those licensing fees set by the Committee and delegated through the Council's constitution.
- 1.2 The proposed fees are contained in APPENDIX A of this report which recommends approval for implementation of the fees from 1st April 2024, pending any further required governance and publication of legal notices required by the legislation for certain licence types and the subsequent consideration of any objections.
- 1.3 These proposals form part of the Councils MTFP proposals, supporting the cost recovery model for the levying of Licensing fees, thereby reducing the risk of any resultant burden that a shortfall in licensing income may have on general funds in terms of continued statutory provision of the Licensing regime.

2. BACKGROUND

- 2.1 The Licensing, Environment and Safety Committee's responsibilities are set out in the Council's constitution, which include setting and reviewing certain Licensing fees.
- 2.2 In addition to approval by Licensing, Environment and Safety Committee Members, Taxi Licensing fees must also obtain final approval at Full Council.
- 2.3 Some fees are set locally, which means that costs can be recovered rather than relying on Council general funds. Guidance states that businesses that benefit from a Licence, should be asked to pay any reasonable costs incurred by the local authority in providing that licence, providing they are fair and reasonable.
- 2.4 In proposing these fees, the Licensing Authority has had regard to the LGA guidance on locally set licence fees, which sets out the steps that must be taken to set fair and reasonable fees, along with the UK Guidance on the Provision of Services Regulations published in March 2021.

2.5 Animal Welfare Licensing

- 2.5.1 The Animal Welfare (Licensing of Activities Involving Animals) Regulations 2018 (the 2018 Regulations) modernised the previous legislation, as well as updating the powers of local authorities to ensure high standards of animal welfare. The 2018 Regulations also provide robust charging mechanisms that allow local authorities to more effectively recover their costs for this work.
- 2.5.2 Fees for Animal Welfare licensing were introduced in 2018 in line with the introduction of the 2018 Regulations and although they have been reviewed annually, have not been increased since this time. The proposed fees do not attempt to recover any previous deficit, but are based on the actual cost to the Council to provide the Animal Welfare Licensing service.
- 2.5.3 Since this time Stockport Council has supported an existing Licensing Case Manager within Public Protection to gain the qualification in Animal Welfare, which is required by the 2018 Regulations. That is, the Local Authority must appoint a qualified officer in order to carry out this statutory function. It is intended that further Officers will become qualified and appointed to support and provide resilience to the service through the levying of these fees.
- 2.5.4 The current animal licence fee structure introduced a flat fee for each licence type. Having carried out this function for 4 years it is clear that it is necessary to amend the fee structure, in line with the guidance, to introduce an application fee and separate licence issue fee. This is to separate out the application and enforcement elements of the fee structure, so that the enforcement element is paid separately at the point of issue of the licence.
- 2.5.5 Once approved, the revised fee structure can be implemented from 1st April with no further governance required.

2.6 Taxi Licensing

- 2.6.1 In accordance with the Local Government (Miscellaneous Provisions) Act 1976, (the 1976 Act), certain costs for driver, vehicle and private hire operator fees can be recovered through the licence fee. The European Services Directive (2006/123/EC) which was incorporated into UK law by the Provision of Services Regulations 2009 applies to a number of licensing fees in terms of recovering costs, but does not apply to taxi licensing. In the case of driver licences, no enforcement costs can be recovered through the levy of a fee which have not been included within these fees in accordance with the legislation and case law, relating to those legally recoverable items only.
- 2.6.2 In all cases the Council must set the fees for these licences on the basis that it only recovers costs which it is entitled statutorily to recover.

- 2.6.3 Subject to LEAS approval, the revised fee structure will progress to Full Council for final governance, which is proposed to be taken forward on 27th March 2024.
- 2.6.4 Subject to Council approval, the 1976 Act requires a notice of the proposed variation to be published in a local newspaper in relation to new vehicle and operator fees, stating that objections may be made within a period of not less than 28 days. If objections are received and not withdrawn the Council must consider them and set a further date on which the variation shall come into force with or without modifications.

2.7 Other miscellaneous licences

- 2.7.1 The remaining proposals relate to Gambling, Street Trading Consents, Car boot sales and skin piercing.
- 2.7.2 Once approved, the revised fee structure for these licence types can be implemented from 1st April 2024 with no further governance required.

3. DETAIL

- 3.1 The statutory principle in relation to the setting of fees is that they should be reasonable and should relate to the costs of performing the function, including staffing, administration, testing, inspections, hearings, regulation and appeals.
- 3.2 Where appropriate and excluding taxi licensing, the proposals comply with the provisions of the European Services Directive (2006/123/EC) which was incorporated into UK law by the Provision of Services Regulations 2009. These legal requirements were considered by the Supreme Court in the case of R (on the application of Hemming and others) V Westminster City Council (2015) UKSC 25 (2017) UKSC 50.
- 3.3 The basis for setting fees is generally to ensure full cost recovery, or as close to it as possible. This is supported by legal judgements which have confirmed that licensing fees may not be used to generate a profit for councils, and that fees should be reviewed annually to ensure that neither a significant surplus nor deficit is created. There are also certain elements as described in Paragraph 2.6.1 which cannot be recovered through the licensing regime. Officers have sought to follow all relevant legislation, guidance and case law whilst carrying out this review.
- 3.4 Having emerged from the challenges of the last few years, where potential increases in fees were balanced against the pressures this placed on licensing service providers, it is clear that an adjustment of the fees is required both to

ensure cost recovery as far as reasonable, and to ensure compliance with guidance in terms of the actual fee structures.

- 3.5 There is a risk to the Council, that if we do not recover all of the costs for services or activities for which we are permitted to charge, it will increase the burden on the Council's general fund. These proposals mitigate this risk as far as possible.
- 3.6 The proposed fees have been calculated on a cost recovery basis, and projections show that if the revised fees are adopted, the costs of administering the Licensing scheme should be recovered.

4. RECOMMENDATIONS

- 4.1 Members are asked to resolve to approve these proposals for the next stage of governance, where required, with implementation from 1st April 2024.
- 4.2 Subject to the approval by Members of the LEAS Committee, Taxi Licensing fees will progress to Full Council on 27th March for final governance. Subject to Full Council approval, the legal notices will be published immediately following this time.
- 4.3 Subject to their approval, all other fees will be implemented from 1st April 2024.

BACKGROUND PAPERS

None

Anyone wishing to inspect the above background papers or requiring further information should contact Sarah Tooth by email taxi.licensing@stockport.gov.uk