



City of Westminster

Licensing Committee Report

Meeting:	<i>Licensing Committee</i>
Date:	<i>30th November 2016</i>
Classification:	<i>For General Release</i>
Title:	<i>Licensing Fees Review 2017/2018</i>
Wards Affected:	<i>All</i>
Financial Summary:	<i>This report sets out the fee strategy for the licensing regimes where the authority can set a fee to attempt to recover its own costs. The proposed fees will enable the authority to recover the majority of its costs for 2017/18.</i>
Report of:	<i>Director of Public Protection and Licensing</i>

1. Executive Summary

- 1.1 The report sets out the proposed fees for those licensing regimes where the Council has the power to set its own fees for 2017/18. The proposed fees will enable the Council to recover its costs in managing and administering these licensing regimes. The projected fees generated from these fees will be in line with the projected fees for 2016/17.

2. Recommendations

- 2.1 That the proposed fees attached to this report as Appendix 1 be approved commencing 1st January 2017.

3. Reasons for Decision

- 3.1 The proposed fees, attached to this report as Appendix 1 will enable to the Council to recover its reasonable costs in processing and determining applications and ensuring compliance with the appropriate legislation and the conditions of the licence.

4. Background

- 4.1 The current licence fees were agreed by the Committee on the 18th November 2015. Those fees came into effect on the 1st January 2016.
- 4.2 The Council has undertaken a review of the current fees and charges to which the Council, as Licensing Authority has the power to set.
- 4.3 The fees are estimated by assessing the time it takes for each step in the process from receipt of application to determination. This will include the time taken by internal consultees, such as the Environmental Health Consultation Team and Registrars.
- 4.4 The Council has also identified the estimated cost for the compliance and enforcement function carried out by the City Inspectors. The time has been assigned to different roles and the costs based on hourly rates. There is also a proportion attributed to these fees for management time which will include the costs associated with running the Department and Services involved with delivering a function associated with one or more licensing regimes. The fees have then been established by calculating the cost associated with each of the licensing functions.
- 4.5 In calculating these fees officers have taken into account the requirements under the EU Service Directive and the Supreme Courts rulings in the Hemming case. As the 2016/17 financial year has not concluded this review has not considered any surplus or deficits from this financial year. The surpluses/deficits from the 2016/17 financial year will be considered as part of the 2018/19 fee review.
- 4.6 Although the Council has not received any applications or issued any licences for some regimes it still must set a fee to recover the costs of carrying out that function. In the cases where the Council has not processed any applications or issued licences the costs have been estimated based on similar types of application process and licences.

5. 2017/18 Fee Review

Animal Licensing Regimes

- 5.1 The Council is the Licensing Authority for the licensing regimes that permit the keeping, performing or selling of animals. The Council is required to consult a

qualified animal welfare inspector or veterinary surgeon on new applications and renewals or variations of existing licences. The Council has previously not included the costs associated with this contracted service within the licence fee. It is proposed to include this cost within the 2017/18 fee which accounts for the greater than 100% increase in the proposed fees. The increase is necessary to recover the Council's full costs in administering these licensing regimes.

Gambling Premises Licences

- 5.2 The Gambling Act 2005 regulates the licensing regime associated with gambling premises. The Council is the Licensing Authority under this regime and has the power to set fees locally. However, the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (2007 Regulations) impose a cap on the maximum amount of fee that Licensing Authorities can charge.
- 5.3 The majority of the premises licence application fees are set at the maximum amount that the Council can charge. However, there are some reductions in the proposed fee levels for transfers, reinstatement of licences and duplicate applications. The reductions of these fees have been proposed based on the projected time and costs associated with considering and determining these applications. The Council receives very few applications for these application types per year.
- 5.4 The maximum fee level set by the 2007 Regulations has been in place since 2007. The costs associated with this Licensing regime has increased and as a result the some of the licensing process now cost the council more than the maximum fee level that the authority can charge (e.g. Betting Shop Annual Fee). The Council will be lobbying the Department of Culture Media and Sport (DCMS) to consider the maximum fee levels for premises licensing under the Gambling Act 2005 with a view to increasing the cap to enable full cost recovery.

Marriage Premises Approvals

- 5.5 The Council manages the approval of premises for civil marriages and civil partnerships. As part of the licensing process the Council's Registrar's will undertake inspections of the premises to ensure it meets the required standards for civil marriages and partnerships. The costs associated with the Registrar's inspections have not been included in previous fee levels for this licensing regime. To ensure full cost recovery for this licensing regime it is proposed to include the costs associated with the Registrar's time in this process in the 2017/18 fees.

Poisons

- 5.6 The Council is required to register premises that sell poisons within Westminster. In the previous licensing review (2016/17) the officer time was underestimated

and it is proposed that the fee level is increased to ensure that the Council recovers its costs in running this licensing regime.

Hypnotism Performances

- 5.7 In considering the resources required for the licensing of hypnotism performances within Westminster as part of this year's fee review it is proposed to reduce the fees for new and renewal applications. This reduction takes into account the perceived reduction in the time and resources required for considering and determining these applications.

Other fees

- 5.8 The Sex Establishment and Sexual Entertainment Venue applications fees remain similar to last year's fees. It is proposed that there will be a slight increase (between 2% and 7%) in fees across all of the licence application types within this regime, excluding Sex Establishment Variations where there is a 2% reduction in the fee compared to last year. The projected income should achieve full cost recovery in 2017/18.
- 5.9 The licensing fees for premises that provide special treatments within Westminster increased significantly last year as part of the 2016/17 fee review. It is proposed as part of this year's review that the fee levels for new, renewal, transfer and confirmation of provisional licence applications will be reduced. However, there will be a slight increase (excluding the late renewal surcharge) in the fee levels for other applications for this licensing regime. These changes are being proposed based on the costs associated with each of the application types. The proposed fees for this regime are projected to achieve full cost recovery.
- 5.10 The Scrap Metal licensing regime is a reasonably new licensing regime (came into effect in 2013). The Council has issued less than 15 licences under this regime and these licences last for a period of three years. After considering the time and costs involved within this process the fee levels have generally been reduced. However, the fee for a new Scrap Metal site licence has been increased due to the need for inspections of the site. The proposed fees will ensure cost recovery for administering and enforcing this regime.

6. Statutory Set Fees

- 6.1 There are other licensing regimes that the council is responsible for which have a statutory set fee. Those regimes are:
- 6.1.1 The Licensing Act 2003 (in respect of premises and personal licences; and temporary event notices;

- 6.1.2 The Gambling Act 2005 (in respect of gambling permits, notifications and lotteries);
 - 6.1.3 The Explosives Regulations 2014 (in respect of the manufacture and storage of explosives); and
 - 6.1.4 The Firework Regulations 2004 (in respect of the sale of fireworks outside specified periods).
- 6.2 The majority of Licensing Act 2003 regime fees were originally set via the Licensing Act 2003 (Fees) Regulations 2005. These fees do not cover the costs associated with the licensing regime. The Council has been running with a deficit since the introduction of this Act and has lobbied DCMS and the Home Office to allow the authority to set its own fees to enable it to recover its reasonable costs.
- 6.3 Earlier this year the Local Government Association (LGA) carried out a consultation exercise to identify the costs associated with the Licensing Act 2003. The purpose of this consultation was to enable the collection of data from Licensing Authorities that could then be submitted to the Home Office as evidence to support the need for locally set fees. The results from the LGA's consultation exercise have been provided to the Home Office who as yet have not responded to that submission.
- 6.4 The Gambling Act 2005 maximum fees for gambling premises licences and fees for permits, notifications and lotteries were set in 2007 when the Act came into effect. Over the years the costs associated with processing to determination applications and compliance costs have increased. The Council will continue to lobby DCMS on all of the Gambling Act 2005 fees and the need for the fees to be set locally with no cap or to increase the fee levels and cap to a more appropriate level.

7. Financial Implications

- 7.1 The proposed fees have been calculated on a full cost basis which considers both the direct and indirect costs associated with processing, monitoring and enforcing the licences.
- 7.2 When setting fees there is a statutory requirement to consider the income received for a licensing scheme compared to the overall cost of delivering the scheme. The fee level must be set to not generate income in excess of the cost associated with delivery.
- 7.3 The table below sets out the projected income levels for 2017/18:

Licence Type	Projected Income 2017/18
Other General Licensing	£10,000
Special Treatment Premises Licensing	£703,000
Gambling Act 2005 Licensing	£174,000
Marriage Approvals	£48,000
Sex Establishment Licensing	£111,000
TOTAL	£1,046,000

7.4 The projected income that will result from this fee review will be in line with the projected income for 2016/17 (£1,058,000).

8. Legal Implications

8.1 The Council can set its own fees for the regimes listed in Appendix 1 of this report. The fee must be reasonable and cover the Council's costs in the administration of those application types and further costs to ensure compliance.

8.2 All of the regimes (excluding Gambling) are covered by the European Union Services Directive. Regulation 18 of the Provision of Services Regulations 2009 which implements the EU Services Directive into UK law requires that fees charged in relating to authorisations must be proportionate to the effective cost of the process. The proposed fees must recover the council's costs in relation to the licensing process and cannot be used as an economic deterrent or to raise funds. The fees as proposed should enable to Council to recover its reasonable costs.

8.3 If the proposed fee structure results in a surplus or loss for the financial year there will be an appropriate reduction or increase in fees as the case may be for the following financial year.

Appendices

Appendix 1 – Proposed 2017/18 fees

If you have any queries about this report or wish to inspect any of the Background Papers please contact: Mr Kerry Simpkin, Licensing Team Manager on 020 7641 1840 or email ksimpkin@westminster.gov.uk

BACKGROUND PAPERS

- 2015/16 – Income reports.
- 2016/17 – Budgets.
- 2016/17 – Officer Hourly rates including on costs.
- All legislation relating to the licensing regimes referred to within this report.