

North Yorkshire Council

Environment Executive Member

22 February 2024

Review of Fees and Charges – General Licences

Report of the Assistant Director – Integrated Passenger Transport, Licensing, Public Rights of Way and Harbours

1.0 PURPOSE OF REPORT

- 1.1 The purpose of this report is to present a proposal for the review of all fees and charges relating to the Council's scrap metal, sex establishment, animal welfare, street trading and gambling licensing functions.

2.0 BACKGROUND

- 2.1 The Council may charge a reasonable fee to recover the costs associated with applications and licences in accordance with the following provisions:
- Schedule 1(6) to the Scrap Metal Dealers Act 2013
 - Schedule 3(19) to the Local Government (Miscellaneous Provisions) Act 1982
 - Regulation 13 of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
 - Section 15 of the Zoo Licensing Act 1981
 - Section 1 of the Dangerous Wild Animals Act 1976
 - Schedule 4(9) to the Local Government (Miscellaneous Provisions) Act 1982
 - The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007
- 2.2 In the case of scrap metal dealers, the Council must set its fees with due regard to any guidance issued from time to time by the Secretary of State. In accordance with the guidance published by the Home Office in this regard, each local authority must ensure that the income from fees charged does not exceed the costs of providing the service.
- 2.3 Similar principles apply to fees and charges relating to sex establishment licences and animal welfare licences.
- 2.4 In the case of gambling premises licences, the fee shall be determined by the relevant licensing authority but the amount shall not exceed the maximum amounts prescribed by regulations.
- 2.5 Licence fees should be calculated on a cost-recovery basis in order for the associated costs of the service to be met by individuals and businesses benefiting from the licensed activity. Any failure to recover costs in this regard would result in a subsidisation of private enterprise at the expense of other services that the Council provides to its taxpayers.
- 2.6 The current fees relating to scrap metal, sex establishments, animal welfare, street trading and gambling licensing functions are attached at Appendix A along with the proposals to take effect from 01 April 2024. The proposed fees reflect an increase in some instances and a reduction in others to implement a harmonised method of recovering the relevant costs associated with licensing functions throughout North Yorkshire.

3.0 PROPOSED LICENCE FEE REVIEW

- 3.1 It is essential to a well-functioning licensing service that those administering and enforcing the regime are well-resourced. Licensing authorities are expected to regularly review their fees to reflect changes to costs.
- 3.2 The cost of the service is determined by several factors including staffing (salaries, along with National Insurance and pension contributions), accommodation, utilities, IT support, legal costs, software, insurance, printing and postage. The licence fee for each application is then dependent on several other factors including, where applicable, the time spent on administration, inspections, complaints, compliance checks, committees and consultations.
- 3.3 At present, licence fees are charged based on calculations made by the predecessor district authorities prior to local government reorganisation on 01 April 2023.
- 3.4 The costs associated with scrap metal, sex establishment and animal welfare licensing functions in North Yorkshire have been calculated with due regard to the relevant legislation, case law and guidance, accounting for changes in personnel, salaries, overheads and operational service delivery. It is proposed to recover the relevant costs in a simplified, consistent manner throughout North Yorkshire to ensure fairness and to prevent cross-subsidisation. The relevant cost calculations are attached at Appendix B.
- 3.5 Prior to local government reorganisation in North Yorkshire, the seven district licensing authorities operated different street trading regimes, the cost of which was recovered from permit holders in accordance with district authority calculations. The different regimes for street trading remain in place at present and therefore it is proposed to apply a general 6% increase on all existing street trading consent fees to account for salaries and overheads. It has not been possible to harmonise street trading fees throughout North Yorkshire at this stage because this would require a full review of policy and other licensing arrangements, which may have a significant impact on the existing businesses. A harmonised street trading regime will be implemented in due course, at which point, the fees will be reviewed accordingly.
- 3.6 Premises licences issued under the Gambling Act 2005 have also been subject to different fees set by the predecessor district authorities. However, in the majority of cases, the maximum fee permitted by regulations has been applied. The maximum fees have not increased since the regulations came into effect in May 2007. In the interests of consistency, it is proposed to apply the maximum rates in any cases where the fees have previously been set at a lower amount.

4.0 CONTRIBUTION TO COUNCIL PRIORITIES

- 4.1 The Council is committed to protecting communities, safeguarding children and ensuring the safety and wellbeing of the public.
- 4.2 A regular review of licence fees is essential to ensure that the licensing regime is adequately resourced to deliver its public protection functions. Effective delivery in this regard also supports economic growth.

5.0 ALTERNATIVE OPTIONS CONSIDERED

- 5.1 The Council may consider retaining the existing licence fees. However, the fees set by the predecessor authorities vary significantly and therefore costs may be recovered unfairly. Furthermore, any failure to recover costs permitted by statute would require an unnecessary subsidisation of the licensing regime at the expense of the Council's taxpayers.

6.0 FINANCIAL IMPLICATIONS

- 6.1 The proposed fees have been calculated with a view to recovering all costs associated with the applications concerned (where permitted by statute).
- 6.2 Any income received must only be used to fund service delivery relating to the relevant licensing functions and therefore it must be emphasised that a review of the fees will not lead to any additional revenue for the Council.

7.0 LEGAL IMPLICATIONS

- 7.1 The legislative framework for setting licence fees has been explored at paragraph 2.1 of this report.
- 7.2 In accordance with regulation 18(4) of the Provision of Services Regulations 2009, any relevant charges which applicants may incur under an authorisation 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.
- 7.3 In accordance with the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007, fees for Gambling Act authorisations shall not exceed the maximum amounts prescribed by the regulations.
- 7.4 In accordance with *R (on the application of Cummings) v Cardiff City Council* [2014] EWHC 2544 (Admin), the Council must not use licence fees as an income-generating scheme. In the event of any surplus arising from income in relation to a particular licence type, the surplus must be used to reduce the relevant fees charged at the next review.

8.0 EQUALITIES IMPLICATIONS

- 8.1 No equalities implications have been identified in the proposed review of licence fees.

9.0 CLIMATE CHANGE IMPLICATIONS

- 9.1 No climate change implications have been identified in the proposed review of licence fees.

10.0 POLICY IMPLICATIONS

- 10.1 In accordance with the Council's Fees and Charges Policy, the default charging method is to recover the full costs (including overheads, capital charges and recharges) with a view to ensuring no element of subsidy from local taxpayers. The Policy is attached at Appendix C.
- 10.2 HM Treasury's Managing Public Money publication promotes a standard approach to calculating costs and setting charges. Annex 6.1 of the document explores how to calculate the cost of public services. The relevant extract is attached at Appendix D.
- 10.3 The Local Government Association (LGA) has published guidance on locally set fees (December 2023) setting out the legislation, case law and details of the costs that may be recovered. The guidance is attached at Appendix E.
- 10.4 The Home Office has published guidance outlining the costs that can be charged in relation to scrap metal licence fees. The guidance is attached at Appendix F.

11.0 REASONS FOR RECOMMENDATIONS

- 11.1 The Council is expected to conduct regular reviews of licence fees to ensure that, where statutory powers exist, the cost of the licensing regime is recovered from applicants and licence holders.

12.0 RECOMMENDATION(S)

- 12.1 It is recommended that the Corporate Director of Environment, in consultation with the Executive Member for Managing our Environment, approves the proposed variation to fees and charges relating to the Council's scrap metal, sex establishments, animal welfare, street trading and gambling licensing functions, with or without amendments effective from 01 April 2024.

APPENDICES:

- Appendix A – Current licence fees and proposed licence fees
- Appendix B – Cost calculations
- Appendix C – North Yorkshire Council's Fees and Charges Policy
- Appendix D – Extract from 'Managing Public Money' (HM Treasury)
- Appendix E – Local Government Association guidance on locally set fees
- Appendix F – Home Office guidance on scrap metal licence fees

BACKGROUND DOCUMENTS:

None

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Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

Licence Fees

Scrap Metal Dealer Licences

	Craven	Hambleton	Harrogate	Richmondshire	Ryedale	Scarborough	Selby	Proposed
Site licence - new [Per additional site]	£445.20	£296.80 [£74.20]	£462.16	£461	£408.10	£583	£369.10	£435 [£85]
Site licence - renewal [Per additional site]	£445.20	£254.40 [£74.20]	£462.16	£429	£408.10	£583	£369.10	
Collector licence - new	£212	£270.30	£427.18	£461	£217.30	£413	£196.70	£340
Collector licence - renewal	£212	£265	£427.18	£429	£217.30	£413	£196.70	
Change of site	£79.50	£68.90	£266.06	£98.58	£134.62	£413	£123.10	£145
Change of site manager	£79.50	£42.40		£65	£134.62	£31	£123.10	£50
Variation – site to collector	£79.50	£42.40		£65	£53		£123.10	£50
Variation – collector to site [Per additional site]	£79.50	£68.90 [£35]		£99	£187.62		£123.10	£145 [£85]
Change of details	£79.50	£21.20		£40	£53	£31	£32	£40

Note: Current fees are shown only where equivalent charges are made at present

Licence Fees

Sex Establishment Licences

	Craven	Hambleton	Harrogate	Richmondshire	Ryedale	Scarborough	Selby	Proposed
New licence	£2,120	£3,710	£3,344.30	£3,858	£3,180	£4,804	£7,205.90	£3,650
Renewal	£2,120	£2,120	£3,184.24	£2,205	£2,756	£4,183	£7,205.90	
Variation	£1,060		£3,184.24					£1,075
Transfer	£275.60	£1,060	£417.64	£1,102	£625.40	£365	£366.50	£315

Zoo Licences

	Craven	Hambleton	Harrogate	Richmondshire	Ryedale	Scarborough	Selby	Proposed
New licence (4 years)	£636	£1219	£1,085.44	£683	Not fixed**	£1,305	£651.80	£1,000
Renewal (6 years)	£901	£1,735.98	£926.44	£683	Not fixed**	£1,305	£651.80	£1,230
Variation			£636			£201	£436.40	£265
Transfer						£315	£326.40	£200

Note: additional vet fees charged separately at cost price where applicable

**Ryedale fees dependent on actual inspection times

Note: Current fees are shown only where equivalent charges are made at present

Licence Fees

Dangerous Wild Animal Licences

	Craven	Hambleton	Harrogate	Richmondshire	Ryedale	Scarborough	Selby	Proposed
New licence (up to 1 year)	£243.80		£541.66	£347		£315	£253.20	£340
Renewal (2 years)	£243.80	£324.36	£501.38	£347	£241.68	£315	£253.20	£340
Variation			£250.16			£254	£126.60	£170

Note: additional vet fees charged separately at cost price where applicable

Note: Current fees are shown only where equivalent charges are made at present

Licence Fees

Activities involving animals – dog breeding, animal boarding, home boarding arranger, pet shops, exhibition of animals, hiring of horses

	Craven	Hambleton	Harrogate	Richmondshire	Ryedale	Scarborough	Selby	Proposed
<u>1-year licence</u>								
Dog breeding	£424.00	£291.50	£484.42	£405.00	£322.24	£315.00	£253.20	£330
Animal boarding	£185.50	£319.06	£510.93	£399.00	£241.68	£315.00	£253.20	
Home boarding arranger	£185.50	£291.50	£393.26	£345.00	£241.68	£315.00	£253.20	
Pet shop	£185.50	£301.00	£470.64	£345.00	£241.68	£315.00	£253.20	
Animal exhibition	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Riding establishment	£385.00*	£382.00*	£479.12*	£505.00*	£281.96	£315.00	£295.40	
<u>2-year licence</u>								
Dog breeding	£424.00	£362.52	£504.56	£405.00	£322.24	£315.00	£253.20	£360
Animal boarding	£185.50	£390.08	£531.06	£399.00	£241.68	£315.00	£253.20	
Home boarding arranger	£185.50	£362.52	£413.40	£345.00	£241.68	£315.00	£253.20	
Pet shop	£185.50	£368.00	£490.78	£345.00	£241.68	£315.00	£253.20	
Animal exhibition	N/A	N/A	N/A	N/A	N/A	N/A	N/A	
Riding establishment	£385.00*	£453.00*	£499.26*	£505.00*	£281.96	£315.00	£295.40	
<u>3-year licence</u>								
Dog breeding	£424.00	£433.54	£524.70	£405.00	£322.24	£315.00	£253.20	£420
Animal boarding	£185.50	£461.10	£552.26	£399.00	£241.68	£315.00	£253.20	
Home boarding arranger	£185.50	£433.54	£433.54	£345.00	£241.68	£315.00	£253.20	
Pet shop	£185.50	£435.00	£511.98	£345.00	£241.68	£315.00	£253.20	
Animal exhibition	£249.10	£390.08	N/A	£345.00	£241.68	£315.00	£253.20	
Riding establishment	£385.00*	£524.00*	£519.40*	£505.00*	£281.96	£315.00	£295.40	
Variation/re-rating	Ranging from £63.60 to £121.90		Ranging from £169.60 to £244.86	£162.00	£60.42	£254.00	£126.60	£200
Minor variation					£60.42	£95.00	£63.30	£65

Note: additional vet fees charged separately at cost price where applicable

* averages used where applicable

Note: Current fees are shown only where equivalent charges are made at present

Licence Fees

Street Trading Consent

Hambleton

Current fees	Proposed fees
12 months: £371	12 months: £390
Up to 4 weeks: £79.50	Up to 4 weeks: £85

Harrogate

Current fees	Proposed fees
<u>Street trading consent</u> 1 day: £108.12 1 week: £145.22	<u>Street trading consent</u> 1 day: £115 1 week: £155
<u>Street market events</u> Up to 20 stalls: £41.34 per metre frontage per day 20 to 50 stalls: £1,198.86 51 to 100 stalls: £1,735.22 100+ stalls: £2,396.66	<u>Street market events</u> Up to 20 stalls: £45 per metre frontage per day 20 to 50 stalls: £1,270 51 to 100 stalls: £1,840 100+ stalls: £2,540

Note: Current fees are shown only where equivalent charges are made at present

Licence Fees

Scarborough

Current fees	Proposed fees
12 months: £710 new or £445 renewal 6 months: £472 3 months: £297 Commercial sale of a vehicle: £28 per vehicle Car boot sales (with free public access): £55 per event Commercial special events: £28 per trader per day	12 months: £750 new or £470 renewal 6 months: £500 3 months: £315 Commercial sale of a vehicle: £30 per vehicle Car boot sales (with free public access): £60 per event Commercial special events: £30 per trader per day

Selby

Current fees	Proposed fees
12 months (non-food): £858.70 12 months (food): £1,709.40 1 day (non-food): £29.40 1 day (food): £72.10	12 months (non-food): £900 12 months (food): £1,800 1 day (non-food): £30 1 day (food): £75

Note: Street trading is not currently regulated in Craven, Richmondshire or Ryedale.

Note: Current fees are shown only where equivalent charges are made at present

Licence Fees

Gambling premises

Hambleton – current fees

Premises licence type	New licence	Annual fee	Variation	Transfer	Reinstatement	Provisional statement	New licence (provisional statement premises)
Regional casino	£1,000	£600	£500	£100	£1,000	£1,000	
Large casino	£1,000	£600	£500	£100	£1,000	£1,000	
Small casino	£1,000	£600	£500	£100	£1,000	£1,000	
Converted casino	N/A	£600	£500	£100	£1,000	N/A	
Bingo	£1,000	£612	£500	£100	£1,000	£1,000	£530
Adult gaming centre	£1,000	£612	£400	£100	£750	£750	£530
Betting premises (track)	£1,000	£612	£450	£100	£800	£800	£477
Family entertainment centre	£1,000	£560	£400	£100	£1,000	£1,000	£477
Betting premises (other)	£1,000	£600	£500	£100	£1,000	£1,000	£530

Richmondshire – current fees

Premises licence type	New licence	Annual fee	Variation	Transfer	Reinstatement	Provisional statement	New licence (provisional statement premises)
Bingo	£1,239	£746	£620	£125	£125	£1,239	£620
Adult gaming centre	£1,239	£746	£493	£125	£125	£930	£620
Betting premises (track)	£1,239	£746	£746	£125	£125	£1,000	£563
Family entertainment centre	£1,239	£678	£493	£125	£125	£1,215	£563
Betting premises (other)	£1,239	£600	£620	£125	£125	£1,239	£620

Note: Current fees are shown only where equivalent charges are made at present

Licence Fees

Ryedale – current fees

Premises licence type	New licence	Annual fee	Variation	Transfer	Reinstatement	Provisional statement	New licence (provisional statement premises)
Bingo	£3,500	£1,000	£1,750	£1,200	£1,200	£1,200	£3,500
Adult gaming centre	£2,000	£1,000	£1,000	£1,200	£1,200	£1,200	£2,000
Betting premises (track)	£2,500	£1,000	£1,250	£950	£950	£950	£2,500
Family entertainment centre	£1,592	£477	£1,000	£950	£950	£950	£1,592
Betting premises (other)	£1,592	£477	£1,000	£1,200	£1,200	£1,200	£1,592

Scarborough – current fees

Premises licence type	New licence	Annual fee	Variation	Transfer	Reinstatement	Provisional statement	New licence (provisional statement premises)
Small casino	£8,000	£5,000	£4,000	£1,484	£1,484	£8,000	£3,000
Converted casino	N/A	£3,000	£1,823		£1,045	N/A	N/A
Bingo	£3,500	£1,000	£1,593	£857	£857	£3,500	£1,200
Adult gaming centre	£1,823	£1,000	£626	£857	£857	£1,823	£1,200
Betting premises (track)	£2,458	£1,000	£914	£571	£571	£2,458	£914
Family entertainment centre	£1,824	£740	£626	£574	£574	£1,823	£915
Betting premises (other)	£3,000	£571	£1,252	£857	£857	£3,000	£1,200

Note: Current fees are shown only where equivalent charges are made at present

Licence Fees

Selby – current fees

Premises licence type	New licence	Annual fee	Variation	Transfer	Reinstatement	Provisional statement
Regional casino	£15,000	£15,000	£7,500	£6,500	£6,500	£15,000
Large casino	£10,000	£10,000	£5,000	£2,150	£2,150	£10,000
Small casino	£8,000	£5,000	£4,000	£1,800	£1,800	£8,000
Bingo	£3,500	£1,000	£1,750	£1,200	£1,200	£3,500
Adult gaming centre	£2,000	£1,000	£1,000	£1,200	£1,200	£2,000
Betting premises (track)	£2,500	£1,000	£1,250	£950	£950	£2,500
Family entertainment centre	£1,000	£300	£1,000	£950	£950	£2,000
Betting premises (other)	£1,000	£300	£1,000	£1,000	£1,000	£1,000

Note: Current fees are shown only where equivalent charges are made at present

Licence Fees

Proposed fees – maximum permitted by regulations (already in effect in Craven and Harrogate)

Gambling Act 2005 premises licences - table of maximum fees
The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007

Premises licence type	New licence	Annual fee	Variation	Transfer	Reinstatement	Provisional statement	New licence (provisional statement premises)
Regional casino	£15,000	£15,000	£7,500	£6,500	£6,500	£15,000	£8,000
Large casino	£10,000	£10,000	£5,000	£2,150	£2,150	£10,000	£5,000
Small casino	£8,000	£5,000	£4,000	£1,800	£1,800	£8,000	£3,000
Converted casino	N/A	£3,000	£2,000	£1,350	£1,350	N/A	N/A
Bingo	£3,500	£1,000	£1,750	£1,200	£1,200	£3,500	£1,200
Adult gaming centre	£2,000	£1,000	£1,000	£1,200	£1,200	£2,000	£1,200
Betting premises (track)	£2,500	£1,000	£1,250	£950	£950	£2,500	£950
Family entertainment centre	£2,000	£750	£1,000	£950	£950	£2,000	£950
Betting premises (other)	£3,000	£600	£1,500	£1,200	£1,200	£3,000	£1,200

Note: Current fees are shown only where equivalent charges are made at present

All licences
Officer hourly rates

NYC Role	Salaries	NI	Pension	Overhead Support	Hourly Rate
Head of Service	£57,134.00	£6,628.69	£10,569.79	£24,567.62	£52.34
Licensing Manager	£45,441.00	£5,015.06	£8,406.59	£19,539.63	£41.63
Senior Licensing Officer	£41,418.00	£4,459.88	£7,662.33	£17,809.74	£37.94
Licensing Enforcement Officer	£36,648.00	£3,801.62	£6,779.88	£15,758.64	£33.57
Technical Licensing Officer	£29,777.00	£2,853.43	£5,508.75	£12,804.11	£27.28

Scrap metal
Annual costs

	Total (minutes)				
	HOS	LM	SLO	LEO	TLO
Service development	120	350	300	300	300
Data protection, FoI requests	15	15	30	0	120
Complaints and investigations	0	480	480	3000	300
Training and research	60	240	240	300	300
Staff (performance, meetings etc)	60	240	240	300	300
Total time (minutes)	255	1325	1290	3900	1320
Total time (hours)	4.25	22.08	21.50	65.00	22.00
Total cost (£)	£222.44	£919.28	£815.76	£2,182.21	£600.12
Active licences	50				
Total annual cost per licence	£4.45	£18.39	£16.32	£43.64	£12.00
	£94.80				

Scrap metal
Processing costs (1 of 3)

		Three years			
Site licence (grant or renewal)		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	0.00	5.00	20.00
Processing application (validation, supporting documents)		0.00	5.00	10.00	15.00
Data entry		0.00	5.00	5.00	20.00
Inspection		0.00	0.00	180.00	0.00
Issue licences etc		0.00	5.00	0.00	10.00
Total time (minutes)		0.00	15.00	200.00	65.00
Time cost (£)		£0.00	£9.49	£111.91	£29.55
Annual costs (£)		£284.39			
Applications per year	8				
Total cost (£)		£435.33			
Additional site (where applicable)					
Inspection		0.00	0.00	150.00	0.00
Total time (minutes)		0.00	0.00	150.00	0.00
Time cost (£)		£0.00	£0.00	£83.93	£0.00
Total cost (£)		£83.93			
Change of site		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	0.00	5.00	20.00
Processing application (validation, supporting documents)		0.00	5.00	5.00	10.00
Data entry		0.00	5.00	5.00	15.00
Inspection		0.00	0.00	180.00	0.00
Issue licences etc		0.00	5.00	0.00	10.00
Total time (minutes)		0.00	15.00	195.00	55.00
Time cost (£)		£0.00	£9.49	£109.11	£25.00
Applications per year	0				
Total cost (£)		£143.60			

Scrap metal
Processing costs (2 of 3)

Change of site manager		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	0.00	5.00	20.00
Processing application (validation, supporting documents)		0.00	5.00	10.00	15.00
Data entry		0.00	5.00	5.00	15.00
Issue licences etc		0.00	5.00	0.00	10.00
Total time (minutes)		0.00	15.00	20.00	60.00
Time cost (£)		£0.00	£9.49	£11.19	£27.28
Applications per year	0				
Total cost (£)		£47.95			

		Three years			
Collector licence (grant or renewal)		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	0.00	5.00	20.00
Processing application (validation, supporting documents)		0.00	5.00	10.00	15.00
Data entry		0.00	5.00	5.00	20.00
Issue licences etc		0.00	5.00	5.00	15.00
Total time (minutes)		0.00	15.00	25.00	70.00
Time cost (£)		£0.00	£9.49	£13.99	£31.82
Annual costs (£)		£284.39			
Applications per year	8				
Total cost (£)		£339.69			

Scrap metal
Processing costs (3 of 3)

Variation (collector to site)		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	0.00	5.00	20.00
Processing application (validation, supporting documents)		0.00	5.00	5.00	10.00
Data entry		0.00	5.00	5.00	15.00
Inspection		0.00	0.00	180.00	0.00
Issue licences etc		0.00	5.00	0.00	10.00
Total time (minutes)		0.00	15.00	195.00	55.00
Time cost (£)		£0.00	£9.49	£109.11	£25.00
Applications per year	0				
Total cost (£)		£143.60			
Additional site (where applicable)					
Inspection		0.00	0.00	150.00	0.00
Total time (minutes)		0.00	0.00	150.00	0.00
Time cost (£)		£0.00	£0.00	£83.93	£0.00
Total cost (£)		£83.93			
Variation (site to collector)		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	0.00	5.00	20.00
Processing application (validation, supporting documents)		0.00	5.00	5.00	10.00
Data entry		0.00	5.00	5.00	15.00
Issue licences etc		0.00	5.00	5.00	15.00
Total time (minutes)		0.00	15.00	20.00	60.00
Time cost (£)		£0.00	£9.49	£11.19	£27.28
Applications per year	0				
Total cost (£)		£47.95			

Sex establishments

Annual costs

	Total (minutes)				
	HOS	LM	SLO	LEO	TLO
Policy and service development	120	300	30	30	30
Data protection and FoI requests	15	15	30	0	120
Enforcement, complaints and investigations	120	120	60	480	30
Inspection (during licence period)	0	0	120	360	30
Training and research	120	360	240	600	600
Staff (performance, meetings etc)	30	80	60	90	90
Total time (minutes)	405	875	540	1560	900
Total time (hours)	6.75	14.58	9.00	26.00	15.00
Total cost (£)	£353.29	£607.07	£341.48	£872.88	£409.17
Active licences	1				
Total annual cost per licence	£353.29	£607.07	£341.48	£872.88	£409.17
	£2,583.89				

Sex establishments
Processing costs

		One year			
New Application		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	10.00	20.00	30.00
Processing application (validation, supporting documents)		0.00	10.00	20.00	20.00
Data entry		0.00	5.00	5.00	15.00
Inspection		0.00	60.00	360.00	30.00
Committee hearings and appeals (on initial application only)		600.00	240.00	240.00	60.00
Issue licences etc		0.00	5.00	5.00	15.00
Total time (minutes)		600.00	330.00	650.00	170.00
Time cost (£)		£416.28	£208.68	£363.70	£77.29
Applications per year	1				
Annual costs (£)		£2,583.89			
Total cost (£)		£3,649.84			
Variation		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	10.00	20.00	30.00
Processing application (validation, supporting documents)		0.00	10.00	20.00	30.00
Data entry		0.00	5.00	5.00	20.00
Inspection		0.00	60.00	360.00	30.00
Committee hearings and appeals (on initial application only)		600.00	240.00	240.00	60.00
Issue licences etc		0.00	5.00	5.00	15.00
Total time (minutes)		600.00	330.00	650.00	185.00
Time cost (£)		£416.28	£208.68	£363.70	£84.11
Applications per year	1				
Total cost (£)		£1,072.77			
Transfer		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	5.00	10.00	20.00
Processing application (validation, supporting documents)		0.00	10.00	10.00	20.00
Data entry		0.00	5.00	5.00	10.00
Inspection		0.00	60.00	360.00	30.00
Issue licences etc		0.00	5.00	5.00	15.00
Total time (minutes)		0.00	85.00	390.00	95.00
Time cost (£)		£0.00	£53.75	£218.22	£43.19
Applications per year	1				
Total cost (£)		£315.16			

Zoos
Annual costs

	Total (minutes)				
	HOS	LM	SLO	LEO	TLO
Service development	30	60	30	30	30
Data protection and Fol requests	30	30	30	0	120
Training and research	30	60	60	60	60
Staff (performance, meetings etc)	15	30	30	30	30
Total time (minutes)	105	180	150	120	240
Total time (hours)	1.75	3.00	2.50	2.00	4.00
Total cost (£)	£91.59	£124.88	£94.86	£67.14	£109.11
Active licences	10				
Total annual cost per licence	£9.16	£12.49	£9.49	£6.71	£10.91
	£48.76				

Zoos
Processing costs (1 of 2)

		Four years			
New Application		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	5.00	10.00	20.00
Processing application (validation, supporting documents)		0.00	10.00	10.00	20.00
Data entry		0.00	5.00	5.00	20.00
Inspections x4		0.00	0.00	1320.00	0.00
Issue licences etc		0.00	5.00	5.00	15.00
Total time (minutes)		0.00	25.00	1350.00	75.00
Time cost (£)		£0.00	£15.81	£755.38	£34.10
Annual costs (£)		£195.04			
Applications per year	0				
Total cost (£)		£1,000.32			

		Six years			
Renewal application		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	5.00	10.00	20.00
Processing application (validation, supporting documents)		0.00	10.00	10.00	20.00
Data entry		0.00	5.00	5.00	10.00
Inspections x6		0.00	5.00	1560.00	0.00
Issue licences etc		0.00	5.00	5.00	15.00
Total time (minutes)		0.00	30.00	1590.00	65.00
Time cost (£)		£0.00	£18.97	£889.67	£29.55
Annual costs (£)		£292.55			
Applications per year	2				
Total cost (£)		£1,230.75			

Zoos
Processing costs (2 of 2)

Variation application		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	5.00	10.00	20.00
Processing application (validation, supporting documents)		0.00	10.00	10.00	20.00
Data entry		0.00	5.00	5.00	10.00
Inspections		0.00	0.00	360.00	0.00
Issue licences etc		0.00	5.00	5.00	15.00
Total time (minutes)		0.00	25.00	390.00	65.00
Time cost (£)		£0.00	£15.81	£218.22	£29.55
Applications per year	1				
Total cost (£)		£263.58			

Transfer application		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	5.00	10.00	20.00
Processing application (validation, supporting documents)		0.00	10.00	10.00	20.00
Data entry		0.00	5.00	5.00	10.00
Inspections		0.00	0.00	240.00	0.00
Issue licences etc		0.00	5.00	5.00	15.00
Total time (minutes)		0.00	25.00	270.00	65.00
Time cost (£)		£0.00	£15.81	£151.08	£29.55
Applications per year	1				
Total cost (£)		£196.44			

Dangerous wild animals

Annual costs

	Total (minutes)				
	HOS	LM	SLO	LEO	TLO
Service development	0	30	30	30	0
Data protection and FoI requests	0	0	30	0	120
Training and research	20	60	60	60	30
Staff (performance, meetings etc)	15	30	30	30	30
Total time (minutes)	35	120	150	120	180
Total time (hours)	0.58	2.00	2.50	2.00	3.00
Total cost (£)	£30.53	£83.26	£94.86	£67.14	£81.83
Active licences	3				
Total annual cost per licence	£10.18	£27.75	£31.62	£22.38	£27.28
	£119.21				

Dangerous wild animals
Processing costs

		Up to one year			
New Application		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	5.00	5.00	20.00
Processing application (validation, supporting documents)		0.00	5.00	10.00	20.00
Data entry		0.00	5.00	5.00	20.00
Inspection		0.00	0.00	300.00	0.00
Issue licences etc		0.00	0.00	0.00	15.00
Total time (minutes)		0.00	15.00	320.00	75.00
Time cost (£)		£0.00	£9.49	£179.05	£34.10
Annual costs (£)		£119.21			
Applications per year	2				
Total cost (£)		£341.84			

		Two years			
Renewal Application		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	5.00	5.00	10.00
Processing application (validation, supporting documents)		0.00	5.00	5.00	10.00
Data entry		0.00	0.00	5.00	5.00
Inspection		0.00	0.00	120.00	0.00
Issue licences etc		0.00	0.00	0.00	15.00
Total time (minutes)		0.00	10.00	135.00	40.00
Time cost (£)		£0.00	£6.32	£75.54	£18.19
Annual costs (£)		£238.41			
Applications per year	2				
Total cost (£)		£338.46			

		LM	SLO	LEO	TLO
Variation					
Receiving application (appointments, photocopies etc)		0.00	5.00	5.00	10.00
Processing application (validation, supporting documents)		0.00	5.00	5.00	10.00
Data entry		0.00	0.00	5.00	10.00
Inspection		0.00	0.00	240.00	0.00
Issue licences etc		0.00	0.00	0.00	15.00
Total time (minutes)		0.00	10.00	255.00	45.00
Time cost (£)		£0.00	£6.32	£142.68	£20.46
Applications per year	1				
Total cost (£)		£169.47			

Activities involving animals (dog breeding, animal boarding, home boarding arrangers, pet shops, exhibition of animals, hiring of horses)
Annual costs

	Total (hours)				
	HOS	LM	SLO	LEO	TLO
Service development	10	20	10	60	30
Data protection and Fof requests	5	10	10	30	30
Training and research	10	20	10	150	30
Complaints and investigations	5	20	10	150	20
Staff (performance, meetings etc)	5	10	10	30	30
Total time (minutes)					
Total time (hours)	35.00	80.00	50.00	420.00	140.00
Total cost (£)	£1,831.87	£3,330.21	£1,897.11	£14,100.44	£3,818.93
Active licences	400				
Total annual cost per licence	£4.58	£8.33	£4.74	£35.25	£9.55
	£62.45				

Activities involving animals (dog breeding, animal boarding, home boarding arrangers, pet shops, exhibition of animals, hiring of horses)

Processing costs (1 of 3)

		One year			
New or renewal application		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	5.00	5.00	15.00
Processing application (validation, supporting documents)		0.00	5.00	10.00	20.00
Data entry		0.00	5.00	10.00	15.00
Inspection and report		0.00	10.00	360.00	0.00
Issue licences etc		0.00	5.00	10.00	10.00
Total time (minutes)		0.00	30.00	395.00	60.00
Time cost (£)		£0.00	£18.97	£221.02	£27.28
Annual costs (£)		£62.45			
Applications per year	14				
Total cost (£)		£329.71			

		Two years			
New or renewal application		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	5.00	5.00	15.00
Processing application (validation, supporting documents)		0.00	5.00	10.00	20.00
Data entry		0.00	5.00	10.00	15.00
Inspection and report		0.00	10.00	300.00	0.00
Issue licences etc		0.00	5.00	10.00	10.00
Total time (minutes)		0.00	30.00	335.00	60.00
Time cost (£)		£0.00	£18.97	£187.45	£27.28
Annual costs (£)		£124.89			
Applications per year	65				
Total cost (£)		£358.59			

Activities involving animals (dog breeding, animal boarding, home boarding arrangers, pet shops, exhibition of animals, hiring of horses)

Processing costs (2 of 3)

		Three years			
New or renewal application		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	5.00	5.00	15.00
Processing application (validation, supporting documents)		0.00	5.00	10.00	20.00
Data entry		0.00	5.00	10.00	15.00
Inspection and report		0.00	10.00	300.00	0.00
Issue licences etc		0.00	5.00	10.00	10.00
Total time (minutes)		0.00	30.00	335.00	60.00
Time cost (£)		£0.00	£18.97	£187.45	£27.28
Annual costs (£)		£187.34			
Applications per year	89				
Total cost (£)		£421.03			

Re-rating		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	5.00	5.00	20.00
Processing application (validation, supporting documents)		0.00	5.00	20.00	20.00
Data entry		0.00	5.00	10.00	10.00
Inspection and report		0.00	0.00	240.00	0.00
Issue licences etc		0.00	5.00	10.00	10.00
Total time (minutes)		0.00	20.00	285.00	60.00
Time cost (£)		£0.00	£12.65	£159.47	£27.28
Applications per year	10				
Total cost (£)		£199.39			

Activities involving animals (dog breeding, animal boarding, home boarding arrangers, pet shops, exhibition of animals, hiring of horses)

Processing costs (3 of 3)

Variation		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	5.00	5.00	20.00
Processing application (validation, supporting documents)		0.00	5.00	20.00	20.00
Data entry		0.00	5.00	10.00	10.00
Inspection and report		0.00	0.00	240.00	0.00
Issue licences etc		0.00	5.00	10.00	10.00
Total time (minutes)		0.00	20.00	285.00	60.00
Time cost (£)		£0.00	£12.65	£159.47	£27.28
Applications per year	10				
Total cost (£)		£199.39			

Minor variation		LM	SLO	LEO	TLO
Receiving application (appointments, photocopies etc)		0.00	5.00	5.00	20.00
Processing application (validation, supporting documents)		0.00	5.00	20.00	20.00
Data entry		0.00	5.00	10.00	10.00
Issue licences etc		0.00	5.00	10.00	10.00
Total time (minutes)		0.00	20.00	45.00	60.00
Time cost (£)		£0.00	£12.65	£25.18	£27.28
Applications per year	10				
Total cost (£)		£65.10			

North Yorkshire Council

Fees & Charges Policy

1.0 Introduction and Context

- 1.1 Income generation is an important part of the Council's overall resources. Fees and charges can help to achieve income to support frontline service delivery and future investment, can influence customer behaviour and can help to ensure the council's policy objectives are achieved.
- 1.2 In total in 22/23 the former 8 councils in North Yorkshire expect to generate £113m from discretionary fees and charges - 11% of total income budgeted for the year. An effective Fees and Charges Policy will help to maximise income raised and lower the burden to Council Tax payers of providing various council services, instead ensuring that where appropriate, it is the direct users of these services that are paying towards the costs of these services.
- 1.3 The principle aims of this Fees and Charges Policy are to support future budget setting and medium-term financial planning processes and to provide a framework for the Council's approach to charging for services.
- 1.4 With this in mind, this Policy has been developed, to provide Service Managers with a centralised framework to consider when reviewing their fees and charges, helping to ensure a consistent approach across the Council.

2.0 Scope

2.1 This Policy applies to:

- Non-Discretionary (Statutory) Services that a Local Authority is mandated, or has a duty to provide, where charging is permissible in the legislation;
- Discretionary Services that a Local Authority has the power, but is not obliged, to provide and may cost recover for providing such services.

2.2 This Policy does not apply to:

- Any service where there is no ability to cost recover (charge) for such services;
- Council Tax and Business Rates – local taxation charges are covered by separate legislation;
- Fees and Charges that are set in statute and regulations, for example, Planning Application Fees;
- Services that are free of charge at the point of delivery, under legislation, for example domestic general waste collection;
- Contributions to the cost of care, as defined by social care legislation;
- Housing Revenue Account (HRA) housing rents – a separate HRA rents policy covers these particular charges;
- Services traded through North Yorkshire Education Services (NYES) and
- Wholly controlled companies – as separate legal entities (within the NYC Group) fees and charges are set separately in accordance with their approved objectives, business plans and governance arrangements.

3.0 Roles and Responsibilities

- 3.1 Within the Council's Constitution, Directors are responsible for establishing and reviewing fees and charges for their directorate in accordance with this corporate policy framework, the legal framework which enables such charges and the approved budget envelope.
- 3.2 The Corporate Director of Resources is responsible for reviewing this policy and providing advice and guidance for its implementation.

4.0 Objectives

- 4.1 With the ever-increasing budget pressures facing the public sector, it is important for the Council to increase resilience and independence wherever possible. One of the main areas this can be explored through is Fees and Charges.
- 4.2 In line with the Council's savings requirements and commercial stance, it is vital to regularly review the continuing provision of those discretionary services where the council is unable, or unwilling, to recover the full costs of service. It is also important to ensure that where there is an opportunity to introduce new fees and charges, this opportunity is investigated fully to understand the implications of doing so.
- 4.3 The Fees and Charges Policy therefore has the following objectives:

4.3.1 Maximising consistency across services:

As part of local government reorganisation, there is a need to move towards a consistent approach to fees and charges to ensure charges reflect service costs and are fair across the whole of North Yorkshire. This Policy acknowledges that there will be different fees and charges in operation across North Yorkshire as services work towards single operating models. This Policy does not specify if, when or how the various fees and charges across all 8 former councils should be harmonised but as services are brought together, it provides a unified set of principles for services to follow.

Any departure from the agreed Policy should be clearly documented and clearly explained. A corporate list of fees and charges is maintained by Finance and will allow Directors and Service Managers to record when a charge was last reviewed and what was considered. To assist with this process, a Fees and Charges calculation tool/guidance has been developed. (Link to Intranet)

4.3.2 Ensuring Fees and Charges are robust and up to date:

All fees and charges are to be reviewed on an annual basis. Whilst it is acknowledged that a full review of each fee and charge implemented by the Council is not practicable each financial year, it is considered that as a minimum the fees and charges already charged by the Council are to be adjusted in line with inflation each year. This will ensure that any inflationary change to the costs of providing a service will be matched by a corresponding change to the charge made for the service. The inflation rate to be applied each year will be notified by the Corporate Director of Resources as part of the budget setting process. All fees and charges must be subject to a detailed review at least every 3 years.

4.3.3 Ensuring that Fees and Charges are clearly understood:

As part of the review of Fees and Charges, the cost of providing each service, and any legislation pertaining to this service, is to be considered. As services start to work together under local government reorganisation and budgets are re-worked, services will be better placed to understand the costs of providing services and will help inform future decisions around fees and charges. The Fees and Charges calculation tool will allow Directors and

Service Managers to calculate the cost of providing a service and record any relevant legislation and store this information for future reference.

4.3.4 Maximising Council income:

When reviewing existing fees and charges, or when considering the implementation of a new charge, the charge should be set at such a level as to maximise the income received by the Council. Please see (Link to intrant) for further guidance on the approach to use when determining a fee and charge.

Service income budgets will rise in line with inflation in each year. As budgeted income targets are set to increase, it is important for fees and charges to be regularly reviewed and updated to help in meeting this increased level of budgeted income.

It is also important to ensure that fees and charges are reflective of the council's costs of service provision, to ensure that services are not being inadvertently subsidised without a positive decision to this effect.

5.0 Implementation

5.1. The following costing approach to fees and charges should be adopted:

- When introducing or reviewing a fee or charge, the Council will follow one of three models set out below.
- As a general rule, Fees and Charges should be aimed towards full-cost recovery, including an appropriate share of corporate and departmental overheads.
- If the Council is unable, or unwilling, to recover the full costs of providing a discretionary service, then as part of the annual review, the continued provision of this service should be considered along with the rationale of the charging policy adopted.
- When finalising the costs of each fee and charge, consideration should be given to any wider implications of setting the charge at the proposed rate, to avoid any unintended consequences.

Costing Model	Objective	Key Considerations
1. Full Cost Recovery	To cover the full costs of delivering the service ensuring no element of subsidy from local taxpayers.	<ul style="list-style-type: none"> • This is the Council's default charging method; • Charges should recover the full costs, including overheads, capital charges and recharges;
2. Cost Plus	To cover the full costs of delivering the service plus a margin to contribute to re-investment in services.	<ul style="list-style-type: none"> • In limited circumstances it may be appropriate to add a margin to full cost recovery, for example to contribute to re-investment in services where the income will not generate a surplus or profit against the service in totality. Guidance from Finance should be obtained before considering such charges

3. Subsidised	To cover all or part of the costs of service delivery with support from local taxpayers.	The level of subsidy should have regard to the full cost of service delivery and there should be a clear and agreed rationale for subsidy
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- 5.2 Fees and Charges should be benchmarked against other local authorities to help identify potential best practice. When appropriate to the Fee and Charge in question, benchmarking against other relevant competitors in the market should also be undertaken.
- 5.3 Each Directorate is responsible for ensuring that their Fees and Charges are appropriately monitored and up to date. Each Directorate's list of Fees and Charges is to be overseen by the Directorate's lead Finance Business Partner.
- 5.4 Annual reviews should consider the following factors:
- Inflationary pressures, and when a flat rate uplift might not be the most appropriate option due to specific changes to the cost-of-service delivery;
 - Service-level budget targets, with the context of council-wide targets and advice from lead Finance Business Partners;
 - Cost of administration;
 - Scope for new charging areas, this might be entirely new discretionary service to deliver, or existing services that are currently not charged for;
 - Demand/volume and sensitivity to price changes;
 - Use stakeholder engagement and comparative data, where appropriate, to ensure that charges do not adversely affect the take up of services or restrict access to services (other than where this is a desirable outcome).
- 5.5 If a decision is taken to not increase some fees and charges the budget shortfall that this creates will need to be bridged through other operational and cost savings. Conversely, if charges are increased above inflation this can contribute to Directorate savings targets.
- 5.6 Service users should be given a reasonable period of notice before the introduction of new or increased charges and there may be a requirement to consult.
- 5.7 To ensure cost effectiveness and efficiency when setting and amending charging levels, the following are to be considered:
- The desirability of increasing the Council's market share e.g., temporarily reducing a fee or charge in order to stimulate demand for a service, leading to increased income generation;
 - Obstacles to maximising full cost recover when providing the service;
 - Future investment required to improve or maintain the service;
 - If full cost recovery would require a sudden and large uplift and may reduce market share, it may be prudent to phase-in that price rise over a longer period with a temporary agreed discount;
 - The desirability of reducing the uptake of a given service, i.e., raising charges during peak times.
- 5.8 Once the review of existing fees and charges has been completed, or any proposal for a new fee or charge has been developed, these will need to pass through each Directorate's agreed approval process before implementation.

5.9 Further guidance is available as part of the Fees and Charges Calculation Tool.

6.0 Regularity of Review

6.1 The Policy is to be reviewed every four years as a minimum and any required amendments will be subject to approval of the Executive.

Annex 6.1

How to calculate charges

This annex discusses how to calculate the cost of public services for which a fee is charged.

Introducing a new or updated charge bearing service

A6.1.1. Public sector organisations planning to set up or update a service for which a fee may be charged shall ensure early engagement with Treasury. Advice should be sought at the earliest opportunity if there are any variations on the standard model. Proposed variations may be agreed in certain instances, considering each on its merits. Each will need to be justified in the public interest and on value for money grounds.

A6.1.2. Practical issues which organisations will need to consider when setting up or refreshing a charge bearing service include: the definition of the service and its rationale; the proposed financial objective (for instance, full cost recovery; 70% of full cost plus a 30% public subsidy); how the service is to be delivered and which organisation is to deliver it; whether the provider should retain any income from charges; the proposed charging structure (for instance, a single service or several sub-services). Organisations will also need to refer to the checklist in box 4.9 of factors to consider when planning policies and projects.

Measuring the full cost of a service

A6.1.3. With agreed exceptions, fees for services should generally be charged at cost, sometimes with an explicit additional element to match the returns of commercial competitors. So to set fees for public services it is essential to calculate the cost of providing them accurately.

A6.1.4. The main features to be taken into account in measuring the annual cost of a service are set out in box A6.1A. Not everything in the list will apply to every service and the list may not be exhaustive. It is important that the calculation is comprehensive, including all relevant overheads and non-cash items.

A6.1.5. So far as possible the calculation should use actual costs, where they are known. For services just starting, there may be no alternative to using best estimates, geared to estimated consumption patterns.

A6.1.6. Start-up costs which are capitalised in the accounts and the cost of fixed capital items are scored in the accounts in full. These costs should be attributed to the cost of the service as the depreciated value each year.

A6.1.7. Start-up costs which cannot be capitalised in the accounts are scored as they are incurred. Such costs may be recovered through fees and charges by spreading them over the first few years of service provision. It is also good

practice to set fees to recover costs which cannot be capitalised in the accounts and which have been incurred to improve efficiency and effectiveness so that charges are lower or offer better value. This needs explicit Treasury agreement and may require statutory backing.

A6.1.8. For services which are charged at different rates, the same procedure should be used to set the different rates. That is, the cost of any premium service should be objectively justifiable by its additional cost (e.g. where faster shipping is offered); or conversely any discount should be justifiable by saving to the supplier (e.g. using the internet rather than over the counter). Note, however, that sometimes the legislation permits differential pricing unrelated to the relative underlying costs – though even then there should be good policy reason for the difference.

Box A6.1A: elements to cost in measuring fees

- Accommodation, including capital charges for freehold properties
- Fixtures and fittings
- Maintenance, including cleaning
- Utilities
- Office equipment, including IT systems
- Postage, printing, telecommunications
- Total employment costs of those providing the service, including training
- Overheads, e.g. (shares of) payroll, audit, top management costs, legal services, etc
- Raw materials and stocks
- Research and development
- Depreciation of start upstart-up and one-off capital items
- Taxes: vat, council tax, stamp duty, etc
- Capital charges
- Notional or actual insurance premiums
- Fees to sub-contractors
- Distribution costs, including transport
- Advertising
- Bad debts
- Compliance and monitoring costs
- Provisions

But not:

- Externalities imposed on society (e.g. costs from pollution and crime)
- Costs of policy work (other than policy on the executive delivery of the service)
- Enforcement costs⁹²
- Replacement costs of items notionally insured
- Start-up costs (those which are capitalised in the accounts) and one-off capital items

Financial objectives

A6.1.9. The standard approach to setting charges for public services (including services supplied by one public sector organisation to another) is full cost recovery. It normally means recovering the standard cost of capital, currently 3.5% in real terms. Some exceptions are noted in section 6.4.

A6.1.10. One other exception is commercial services, i.e. those services which compete or may compete with private sector suppliers of similar services. These should aim to recover full costs including a real rate of return in line with the rates achieved by comparable businesses facing a similar level of risk. The normal range of rates is 5-10% but rates as high as 15% may be appropriate for the very highest risk businesses.

A6.1.11. Great care should be taken in pricing commercial services where public sector suppliers have a natural dominant position. The market prices of competitors will often be a good guide to the appropriate rate of return if there is genuine competition in the market. Where there are limited numbers of buyers and sellers in a market, it may be better to take other factors into account as well. These might include past performance, the degree of risk in the underlying activity and issues bearing on future performance.

Accidental surpluses and deficits

A6.1.12. Despite every effort to measure and forecast costs, surpluses and deficits are bound to arise from time to time. Causes may include variations in demand, in year cost changes, and so on. It is good practice to consider mid-year adjustment to fee levels if this is feasible.

A6.1.13. It is also good practice to set fees to recover accumulated past deficits. This may require statutory backing through a s102 order (see paragraph 6.3.3).

A6.1.14. Where significant surpluses have arisen, these should usually be refunded to the payees at the earliest opportunity.

⁹² See HMT guidance on receipts

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/226421/PU1548_final.pdf



LGA guidance on locally set licensing fees

This guidance aims to help councils to understand the full breadth of issues that should be considered when setting local licence fees in order to meet legal obligations and provide the necessary reassurances to local businesses.

14 Dec 2023

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Introduction

Councils are responsible for administering a range of licences and approvals relating to both national legislation and discretionary functions that are adopted locally. For the majority of these regimes the costs are recovered through fees set by each council and paid by the licence applicant. It is an accepted principle in relation to these functions that those who benefit from the system (such as licence holders) should cover the cost of it. Locally set fees are a vital means of ensuring both that full costs can be recovered by each and every council, reducing the risk of a subsidy from local taxpayers, and that businesses do not pay more than they should.

Licensing decisions that are made by councils can face scrutiny from businesses, the public and in the media, particularly in relation to fee setting. Therefore, every council should ensure it sets fees in a legally robust and transparent manner.

This guidance aims to help councils to understand the full breadth of issues that should be considered when setting local licence fees in order to meet legal obligations and provide the necessary reassurances to local businesses. It does not contain a fees calculator because this

assumes a uniformity of service design and associated costs, when it is vital that councils are free to design services that best serve the needs of their community and recover costs accordingly. Whilst this guidance is focused primarily on licensing fees, the principles of good fee setting apply equally to other fees set by council regulatory services (and beyond) so officers working in those fields may also find this guidance useful.

Key issues for consideration

Balancing the need for funding with a proportionate approach

Regulatory services are at the heart of councils' approaches to economic growth. Officers working in licensing, environmental health and trading standards have regular interactions with businesses and can therefore have an important role in helping them become established and grow, at the same time as ensuring they adhere to important safeguards.

To ensure that councils can promote growth and protect the public, there is a need to ensure that licensing and wider regulatory regimes are adequately resourced. This requires funding, and it is an accepted principle that licensed activities should be paid for by those benefiting from the licensed activity, rather than drawing on the public purse.

Where councils have the flexibility to set local fees, it is possible to consider how resources can be focused on risk; whether business support is effective; and how the burden of inspections can be removed where it is not necessary. A streamlined approach to licensing will ensure that fees are kept to a minimum and businesses can be encouraged to prosper. However, councils should ensure they are accurately setting their fees, including checking that the hourly rates of licensing and other officers are correct and considering wider costs such as administration or on-site costs, to enable full cost recovery.

What are the Provision of Services Regulations 2009 and how do they impact on locally set licence fees?

Whilst the detail of what may or may not be chargeable under a licensing scheme is sometimes set out in individual pieces of legislation, or is established through case law, councils need to be aware of and comply with the **Provision of Services Regulations 2009**. These Regulations have important implications for licence fee setting, and there have been legal challenges to licensing fees based on the Regulations in the past.

The Provision of Services Regulations protect UK businesses and consumer rights by maintaining obligations on UK competent authorities to ensure that their regulation of service activity through authorisation schemes is proportionate, justified in the public interest and such authorisation schemes are administered in a fair, accessible and transparent way.

They were first introduced in 2009 and transposed the European Union Services Directive 2006, which aimed to make it easier for businesses to provide cross-border services with other European Economic Area countries by lowering non-tariff barriers to trade. This included reducing administrative and regulatory burdens on businesses providing a service activity. The European Services Directive no longer applies to UK law following the UK's exit from the European Union. However, the European Union (Withdrawal) Act 2018 preserved the Provision of Services Regulations 2009 under UK law, so councils still need to comply with the requirements of the Regulations. For example, the principles of no profit-making, no cross subsidies between licence types or leakage to the General Fund, taking forward deficits and surpluses when deciding following years' fee levels, and using fees to cover enforcement costs where relevant domestic legislation allows still apply.

Councils should note that the Government has been conducting a review of the Regulations and intends to reform the Provision of Services Regulations using the powers within the Retained EU Law (Revocation and Reform) Act.

[Further guidance about the Provision of Services Regulations is available on the Department for Business and Trade's website. \(https://assets.publishing.service.gov.uk/government/uploads/system/](https://assets.publishing.service.gov.uk/government/uploads/system/)

[uploads/attachment_data/file/975587/provision-of-services-guidance-march-2021.pdf](#)) Councils should specifically note that the Regulations do not apply to the licensing of taxis or gambling activities; however, the principles remain a helpful way of providing a transparent and business-friendly approach to licensing.

Principles of the Provision of Services Regulations

The general principles of the Regulations apply to the processes and procedures applied by competent authorities (regulators and councils) who administer authorisations schemes. These provide benefits to service providers when seeking a relevant authorisation, such as a licence, in order to establish their business.

The core principles of the Regulations – **justified by an overriding reason relating to the public interest (such as public safety, public health or public policy); proportionate to the public interest objective; clear and unambiguous; objective; made public in advance; transparent and accessible** – apply to fee setting and are already practiced by a large number of councils with the aim of ensuring a fair and transparent approach for local businesses and communities.

Councils should also ensure that the principle of non-discrimination applies. When considering fee setting, councils should ensure that all applicants are treated equally irrespective of protected characteristics, location and/ or nationality. However, councils do have a discretion not to impose a full cost recovery charge, provided this is to achieve a legitimate aim.

The importance of this approach has also been established by case law on taxi and PHV licensing which, although not covered by the Regulations, illustrates an important precedent which councils should adhere to. *Cummings v Cardiff* ruled that the charges within a licensing regime for different categories of licence should not subsidise each other; so, a surplus gained on hackney carriage licences should not reduce the cost of a private hire vehicle licence. This can be logically extended to mean that the fees received under one licensing regime must not subsidise fees charged under another. For instance, a surplus generated by taxi fees must be reinvested back into taxi licensing and

not used to reduce the cost of, for instance, a scrap metal dealer's licence. Councils should also be aware of the R (Rehman) v Wakefield case, which made it clear that driver enforcement costs cannot be covered by vehicle licences, but they can be covered by driver licence fees.

All councils should, therefore, ensure that they have individual, discrete cost-calculations for each of the licensing regimes that they operate. This may require a change in the way that some councils operate.

Administering payment of fees

Under the Provision of Service Regulations councils need to ensure that details of any fees are easily accessible online, including the ability to make payments online.

Councils should be able to separate out the cost of processing an initial application from those costs associated with the ongoing administration of a scheme, because this latter element cannot be charged to unsuccessful licence applicants.

Hemming v Westminster

In Hemming v Westminster, the Supreme Court referred to the European Court of Justice (ECJ) the issue of how the charges were levied. The Court identified two different approaches to charging fees:

(a) Whereby a council charged a fee upon application (covering the costs of authorisation procedures) and a subsequent fee to successful applicants (covering the cost of administering and enforcing the framework) - the 'type A' approach.

(b) Where a council charged a single fee on application covering all costs, on the basis that the relevant proportion of the fee would be refunded to unsuccessful applicants – the 'type B'

approach.

The Court found the type A approach of charging two fees is permissible under the European Services Directive and the Provision of Service Regulations but felt that the type B approach of charging a single fee was not compatible with the Services Directive or the Regulations.

Therefore, licensing authorities should confirm that their fee structures ensure that application fees relate solely to the cost of authorisation procedures (the costs associated with reviewing an application and granting / refusing a licence). Under the type A approach, successful licence applicants should subsequently be charged an additional fee relating to the costs of administering and enforcing the relevant licensing framework.

Not all legislation in England and Wales permits councils to separate out elements of the fee in this way. For instance, the Licensing Act 2003 has nationally set fees, which constrains councils' ability to adopt this approach. It is therefore unclear whether a council could offer a refund of the enforcement element if an application is refused under this Act: the LGA view is that this is not possible, as the legislation requires that the specified amount (fee) must be paid on application.

Nevertheless, despite these constraints, councils could consider calculating the notional costs of administration and enforcement separately and make applicants aware of the two elements to the fee. In addition to meeting the transparency requirements of the Provision of Service Regulations, this enables councils to examine the efficiency of their internal processes and make improvements where necessary. The process adopted and information available about this should be simple and cost effective for both the council and businesses.

Reasonable and proportionate

The Regulations also includes specific requirements that apply to the charging of fees. Charges must be reasonable and proportionate to the cost of the processes associated with a licensing scheme. **Councils must not use fees covered by the Regulations to make a profit or act as an economic deterrent to deter certain business types from operating within an area.**

Keeping fees under review

Fees should be broadly cost neutral in budgetary terms, so that, over the lifespan of the licence, the budget should balance. Those benefitting from the activities permitted by the various licences should not, so far as there is discretion to do so, be subsidised by the general fund.

To ensure that fees remain reasonable and proportionate it is necessary to establish a regular and robust review process. This has particular advantages in the early stages of a new licensing regime, where fees have been set on best guess estimates of the number of applications that will be received.

Annual reviews allow for the fine tuning of fees and allow councils to take steps to avoid either a surplus or deficit in future years. This will not immediately benefit licence holders where the licence has been granted for a number of years and paid for in a lump sum, but will ensure new entrants to the licensing scheme are charged appropriately.

Councils that divert fees' income from the relevant licensing scheme to fund other licensing work, or to fund other council activities, will be breaking the law.

Where fees charged result in a surplus, both *Hemming v Westminster* and *Cummings v Cardiff* stated that this surplus must be used to reduce the fees charged in the following year. It is possible to extend the reinvestment of the surplus over more than one year, but this will need careful consideration about whether contributors may leave the licensing system over that period and therefore lose out on the return. Deficits can similarly be recovered, although where there is a significant deficit, councils may want to consider how recovery can be undertaken over more than one year so as not to financially harm otherwise viable businesses.

The case of **R v Tower Hamlets LBC (1994)** may also be of relevance, as the High Court indicated that “a council has a duty to administer its funds so as to protect the interests of what is now the body of council taxpayers”.

Open route for challenge

In the interests of transparency, it is helpful to give an indication of how the fee level has been calculated; the review processes in place and a contact method for businesses to query or challenge the fees. Open consultation with businesses and residents to design a local service, including understanding the implications for fees, helps to provide a robust answer to challenge.

It may also prove helpful to engage elected members in the scrutiny of fees. They will use their knowledge as local representatives to consider councils’ assumptions and challenge them where necessary.

What can be included in a licence fee?

Local authorities and organisations such as the LGA have previously identified that cost recovery and charging models for chargeable services is a key issue affecting the financial sustainability of regulatory services, and this can in part be due to outdated charging approaches. Councils should take a holistic approach to costs and think about the total cost of putting an officer on the ground, and not just their salary cost. As such, councils should consider the following elements when setting licence fees. It should be noted that this list is for **consideration only**, as councils may choose not to charge for all the elements listed if they do not apply locally, or there may be additional areas of work carried out during the licensing process that are not included in this guidance.

Individual pieces of legislation may also have specific items that may or may not be chargeable under the scheme. The lists below will apply for most schemes, but should always be checked against the relevant piece of legislation. If councils have any concerns, they should seek the advice of their in-house legal department.

More generally, when thinking about fees it is crucial that councils have a clear understanding of what the hourly rates of their licensing officers are. The LGA has a broad concern that councils often underestimate the overall hourly rate of officers, and this can lead to councils not recovering their costs.

Initial application costs could include:

Administration – This could cover basic cost of office administration to process the licence application, such as resources, photocopying, postage or the cost of handling fees through the accounts department. This could also include the costs of specialist licensing software to maintain an effective database, and printing licences.

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.

Liaison with interested parties – Engaging with responsible authorities and other stakeholders will incur a cost in both time and resources.

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 referenced below.

Local democracy costs – Councils may want to recover any necessary expenditure in arranging committee meetings or hearings to consider applications.

On costs – including any recharges for payroll, accommodation, including heating and lighting, IT hardware and supplies and services connected with the licensing functions. Finance teams should be able to provide a standardised cost for this within each council.

Development, determination and production of licensing policies – The cost of consultation and publishing policies can be fully recovered.

Web material – The Provision of Services Regulations require that applications, and the associated guidance, can be made online and councils should effectively budget for this work.

Advice and guidance – This includes advice in person, production of leaflets or promotional tools, and online advice.

Setting and reviewing fees – This includes the cost of time associated with the review, as well as the cost of taking it to a committee for approval.

Further compliance and enforcement costs could include:

- **Additional monitoring and inspection visits** – Councils may wish to include a charge for risk-

based visits to premises in between licensing inspections and responding to complaints. As with the initial licensing visit, councils can consider basing this figure on average officer time, travel, administration, management costs and on costs as suggested above.

■ **Local democracy costs** – Councils may want to recover any necessary expenditure in arranging committee meetings or hearings to review existing licences or respond to problems.

■ **Registers and national reporting** – some licensing schemes require central government bodies to be notified when a licence is issued. The costs of doing this can be recovered.

Charging for action against unlicensed traders

Councils' ability to charge for these costs as part of a licensing scheme depends on the licensing scheme in question. In **Hemming v Westminster**, the Supreme Court ruled that the Services Directive made no mention of enforcement costs. Councils' ability to charge these costs to applicants for licences is therefore dependent on the UK legislation.

The Court ruled that licensing authorities are entitled under the **Local Government (Miscellaneous Provisions) Act 1982** to impose fees for the grant or renewal of licences covering the running and enforcement costs of the licensing scheme; in this case, the licensing scheme for sex shops.

Taxi and PHV licensing case law is clear that driver enforcement costs cannot be covered by vehicle licences, but they can be covered by driver licence fees. This was established by the **R (Rehman) v**

Wakefield case. The LGA believes that section 70(1) of the 1976 Act makes it clear that the costs of enforcement against licensed operators can also be recovered through a fee; however, the position on recovering these costs is contested.

[Home Office guidance under the Scrap Metal Dealers Act \(https://www.gov.uk/government/publications/scrap-metal-dealers-act-2013-supplementary-guidance\)](https://www.gov.uk/government/publications/scrap-metal-dealers-act-2013-supplementary-guidance),

Councils [must have regard to this guidance \(https://www.gov.uk/government/publications/scrap-metal-dealers-act-2013-supplementary-guidance\)](https://www.gov.uk/government/publications/scrap-metal-dealers-act-2013-supplementary-guidance), which prevents the recovery of enforcement costs against unlicensed dealers only. Great care must therefore be taken when setting fees to check what is and is not permitted under that specific licensing regime.

Unrecoverable costs

It is worth considering that the costs of defending appeals in the magistrate’s court or via judicial review can be recovered through the courts. Including these costs within the fee's regime could lead to recovering the costs twice, which would be inconsistent with the Provision of Service Regulations

Do	Don't	Maybe
Check the relevant legislation	Use a surplus from one fee to subsidise another	Include the costs of enforcement against unlicensed traders
Calculate processing costs and enforcement costs separately	Allow fees income to be drawn into the council’s general fund	Include a condition on the issued licence that requires the payment of the enforcement part of the fee, where this is not charged upfront
Clearly communicate to applicants the elements that make up the fee	Allow fee levels to roll-over each year without a review	

Do	Don't	Maybe
Ensure fees are determined by the right person	Forget to ask the courts to award costs during a prosecution	
Include staff on-costs		
Include training costs for officers and councillors		

Further support

The practical approach to designing a local licensing service, allocating costs accurately and considering legal implications can be a difficult task; therefore, it is strongly recommended that licensing teams work with their legal advisors and finance teams to make the best use of all expertise.

In addition, councils should consider working collaboratively with neighbouring authorities to provide mutual support. Working with other councils and reviewing fees set by similar authorities can be an extremely valuable way of ensuring that fees are not perceived to be disproportionate by businesses.

This document sets out high-level, over-arching principles for fee setting that apply across most licensing regimes. It is always important to check the specific details of the regime in question. The following links will take you to relevant legislation or guidance for the most common licensing regimes.

▼ Relevant guidance links

[Licensing Act 2003 \(//www.gov.uk/government/publications/alcohol-licensing-fee-levels \)](https://www.gov.uk/government/publications/alcohol-licensing-fee-levels)

Gambling Act 2005 (<http://www.legislation.gov.uk/ukpga/2005/19/section/212>) and The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (<http://www.legislation.gov.uk/uksi/2007/479/contents/made>)

Scrap Metal Dealers Act 2013 (<https://www.gov.uk/government/publications/scrap-metal-dealer-act-2013-licence-fee-charges>)

Taxis and PHV Licensing (Local Government Miscellaneous Provisions Act 1976 (<http://www.legislation.gov.uk/ukpga/1976/57/section/70>))

Sexual Establishments (Local Government Miscellaneous Provisions Act 1982 (<http://www.legislation.gov.uk/ukpga/1982/30/schedule/3>))

Street Trading (Local Government Miscellaneous Provisions Act 1982) (<http://www.legislation.gov.uk/ukpga/1982/30/schedule/4>)

Provision of Services Regulations 2009 (<https://www.legislation.gov.uk/ukdsi/2009/9780111486276/contents>)

Case law

Hemming v Westminster

[The Hemming v Westminster case](https://www.supremecourt.uk/cases/uksc-2013-0146.html) (<https://www.supremecourt.uk/cases/uksc-2013-0146.html>) tested the degree to which fees and processes must be proportionate, as well as the administrative processes for calculating fees, in the context of licensing sex establishments. The case established a number of key points about setting fees under the European Services Directive and Provision of Service Regulations.

The case has passed through a number of courts, including the Court of Appeal and Supreme Court, with different elements of the case being settled at different stages.

In 2013, the Court of Appeal ruled that the fees set must not exceed the costs of administering the licensing regime. This meant that the council was no longer able to include the cost of enforcement against unlicensed sex establishment operators when setting the licence fee. The Court of Appeal held that such costs could not be deemed to fall within the **EU Services Directive 2006** and associated **UK Provision of Services Regulations 2009**.

The Directive states that charges levied by a competent body on applicants under an authorisation scheme must be reasonable and proportionate to the cost of the *'procedures and formalities'* of the scheme and must not exceed these costs. However, the cost of visits to licensed premises to monitor compliance could be recovered through fees.

The judgement also found that the annual reviews were conducted by an officer of Westminster City Council who did not have delegated authority so to do, and that it was the Committee that was supposed to set the fees. However, the judgement did not suggest there was anything intrinsically wrong with an officer undertaking this function provided the function has been properly delegated (where it can be), and that the officer takes relevant considerations into account. The judge rejected the council's submission that the fee had been fixed on an open-ended basis in 2004 so that the fee rolled over from one year to the next. Westminster City Council was consequently ordered to repay fees charged over that period.

The judgement would have left Westminster, and potentially other councils, liable to refund the proportion of sex shop licence fees deemed to be unlawful, dating back to the introduction of the Regulations in 2009.

Westminster appealed the Court of Appeal's judgement on the recovery of enforcement costs, and the case was heard by the Supreme Court in January 2016. Other matters determined by earlier hearings, such as the need to review fees annually and the requirement for councils to ring-fence income from licensing fees so that any surplus or deficit is carried forward to the next year's budget, were not contested.

The council's position that it was lawful for it to seek to recover all enforcement costs was supported by the LGA, which submitted written interventions to the Supreme Court. A range of regulatory bodies, as well as HM Treasury, also submitted written interventions in the case.

The Supreme Court ruled that licensing authorities are entitled under the **Local Government (Miscellaneous Provisions) Act 1982** to impose fees for the grant or renewal of licences covering the running and enforcement costs of the licensing scheme. Crucially, it reasoned that the **European Services Directive** deals only with the issue of authorisation procedures and fees relating to applications to exercise a service activity (such as operating a sex shop).

Therefore, the Directive does not prevent licensing authorities from charging those who receive licences, fees that are proportionate to the cost of administering and enforcing the licensing framework for that activity.

Cummings v Cardiff (https://docs.wixstatic.com/ugd/241720_86a9559ead8b44569ef0153631a1b766.pdf)

Cardiff Council had proposed a significant increase to hackney carriage and private hire vehicle charges in July 2013. Cummings and other claimants then challenged Cardiff City Council by way of judicial review over the manner in which these costs had been calculated. In 2014, Mr Justice Hickinbottom granted the claim for the review on the grounds that:

- the level of fees set failed to have regard to and/or account for any surplus or deficit generated in previous years dating back to 1 May 2009
- the level of fees set failed to account for any surplus or deficit accrued under each of the hackney carriage and private hire licensing regimes within the regime under which they have accrued
- the level of fee set for hackney carriage licences in 2013 included part of the cost of funding taxi marshals for the Council's administrative area.

The Judge also made declarations that:

(1) A local authority when determining hackney carriage and private hire licence fees under ss.53 and 70 of the LG(MP) Act 1976 must take into account any surplus or deficit generated from fees levied in previous years in respect of meeting the reasonable costs of administering the licence fees as provided by ss.53 and 70 above.

(2) A local authority must:

- keep separate accounts for hackney carriage and PHV licence fees under ss.53 and 70 of the LG(MP) Act 1976
- ensure that any surplus or deficit identified under each part of the hackney carriage and private hire licensing regimes is only applied to the part of the system from which it has been raised/lost
- ensure that any surplus from one licensing regime shall not be used to subsidise a deficit in another.

References

▼ References

R v Westminster City Council ex parte Hutton (1985) 83 LGR 516.

R v London Borough of Tower Hamlets ex parte Tower Hamlets Combined Traders Association, 19 July 1993; [1994] COD 325 QBD Sedley J. Although the decision was about the London Local Authorities Act 1990, it would appear to have general effect as a principle.

Scrap Metal Dealer Act 2013: guidance on licence fee charges

Context

The Scrap Metal Dealers Act 2013 (referred to in this guidance as the 2013 Act) received Royal Assent on the 28 February 2013, delivering much needed reform of the scrap metal sector. The 2013 Act will provide effective and proportionate regulation of the sector, creating a more robust, local authority run, licensing regime that will support legitimate dealers yet provide the powers to effectively tackle unscrupulous operators. It will raise trading standards across the whole sector.

Introduction

The 2013 Act will allow local authorities to decide who should and should not be licensed, allowing them to refuse a licence upon application or to revoke a licence at any time if they are not satisfied that the applicant is a suitable person to carry on business as a Scrap Metal Dealer. The act also creates closure powers for unscrupulous dealers who operate without a licence. It extends the record keeping requirements placed upon scrap metal dealers and requires the verification of the people Scrap Metal Dealers are transacting with. The act will integrate the separate regulation for motor salvage operators with the scrap metal sector and bring to an end the cash exemption given to some collectors under the 1964 Act.

Finally, the 2013 Act creates a fee raising power, to allow local authorities to recover the costs stemming from administering and seeking compliance with the regime. This element of the legislation will be the focus of this guidance.

The intention is for the act to be implemented in October 2013.

Licensing requirements placed upon scrap metal dealers

Section one of the 2013 Act requires a scrap metal dealer to obtain a licence in order to carry on business as a scrap metal dealer¹. It will be an offence to carry on a business as a scrap metal dealer in breach of the requirement to hold a licence. This offence is punishable on summary conviction with a fine not exceeding level 5 on the standard scale. In addition, Schedule 1(6) of the 2013 Act provides that an application must be accompanied by a fee set by the authority.

Aim and scope

Local authorities will be responsible for administration and compliance activity in relation to the 2013 Act. This guidance is provided to local authorities in relation to the carrying out of their fee raising function. It also provides information for the benefit of those who will be applying for a scrap metal dealer's licence and the general public. This guidance applies to local authorities in England and Wales and is produced in accordance with the 2013 Act.

Legal status

Schedule 1(6) of the 2013 Act provides that an application must be accompanied by a fee set by the local authority. In setting a fee, the authority must have regard to any guidance issued from time to time by the Secretary of State with the approval of the Treasury. This Guidance is therefore binding on all licensing authorities to that extent.

What costs can local authorities charge for when issuing a licence?

The 2013 Act provides that an application for a licence must be accompanied by a fee set by the local authority. This fee raising power is an essential component of the legislation as it will provide local authorities with the funding they need to administer the regime and ensure compliance.

The power to set fees has been passed to individual local authorities, so that any fees levied in each local area is set by reference to the actual costs to each authority. The EU services directive states that a licence fee can only be used to pay for the cost associated with the licensing process. In effect, each local authority must ensure that the income from fees charged for each service does not exceed the costs of providing the service.

LAs should specify fees for each category of application. Specifically we would expect a fee to be specified for the assessment of an application for a licence, the assessment of an application to vary a licence, and the assessment of an application for licence renewal.

Local authorities should specify fees which are payable by licence applicants for the assessment and administration activity within the new licensing regime brought about by the 2013 Act. They should do this by identifying what they need to do to assess the type of licence in question and calculating their best estimate of the cost to be incurred by the LA. The authority will then be able to calculate a best estimate of unit cost for each case.

In effect, the costs of a licence should reflect the time spent assessing and administering applications, processing them, having experienced licensing officers review them, storing them, consulting on the suitability of an applicant, reviewing relevant offences, the decision on whether to issue a licence, as well as the cost of issuing licences in a format that can be displayed. Consulting the local authority's enforcement records in order to determine the suitability of the applicant is chargeable within the licence fee costs as are costs associated with contested licence applications.

Registering authorities should review fees regularly to check whether they remain appropriate.

Can a local authority charge for enforcement activity?

The licence fee cannot be used to support enforcement activity against unlicensed scrap metal dealers. Any activity taken against unlicensed operators must be funded through existing funds. Such activity against unlicensed operators includes issuing closure notices; with applications for closure orders subsequently made to a magistrates court. The cost of applying to the Magistrates Court for a warrant (Section 16(5)(6) and (7) of the 2013 Act) for entry to unlicensed premises, by force if necessary, will incur legal costs to be borne by the local authority and police.

What are the different types of licences?

There are two types of licence specified within the act, one is for a site licence and the other is for a mobile collector licence (carrying on business otherwise than at a site). The licence authorises the licensee to carry on business as a scrap metal dealer at the sites listed in it (in the case of a site licence) or within the local authority area (in the case of a mobile collector's licence).

Site licences

A site licence requires all of the sites at which the licensee carries on the business as a scrap metal dealer within the local authority area to be identified and a site manager to be named for each site. In doing so, they will be permitted to operate from those sites as a scrap metal dealer, including transporting scrap metal to and from those sites from any local authority area.

Collectors licences

A collector's licence authorises the licensee to operate as a mobile collector in the area of the issuing local authority, permitting them to collect any scrap metal as appropriate. This includes commercial as well as domestic scrap metal.

The licence does not permit the collector to collect from any other local authority area. A separate licence should be obtained from each local authority from which the individual wishes to collect in. A collector's licence does not authorise the licensee to carry on a business at a site within any area. Should a collector wish to use a fixed site, they will need to obtain a site licence from the relevant local authority.

The Act 2013 also specifies that a licence will be issued by the local authority in whose area a scrap metal site is situated, or (in respect of a mobile collector) in the area that the collector operates.

Do different fees apply?

Yes. Fees charged for a site licence would reflect the extra work involved in processing these licences and will vary from a collector's licence.

Display of licences

The form in which a licence is issued must enable it to be displayed in accordance with section ten of the 2013 Act. All licensees are therefore required to display a copy of their licence. For site operators the licence must be displayed in a prominent place in an area accessible to the public. For mobile collectors, it must be in a manner which enables the licence to be easily read by a person outside the vehicle. A criminal offence is committed by any scrap metal dealer who fails to fulfil this requirement. This offence is punishable on summary conviction with a fine not exceeding level 3 on the standard scale.

The cost of providing a licence in a form which can be displayed should be included in the local authority licence fee charges.

Police objections to licence applications

The police may object to a licence application where they believe that the applicant is not a suitable person as defined within the act. The police can object where, for example, the applicant has been convicted of a relevant offence. LAs should also consider representations from other organisations or individuals in considering the applicant's suitability

Where the police do object, the local authority should take this into consideration but must use their own judgement and discretion when taking a licence decision. The local authority must allow for the person whose licence is about to be refused or revoked to be afforded the right to make representations. The local authority considering the matter must restrict its consideration to the issue of suitability of applicant and provide comprehensive reasons for

its decision.

Costs associated with considering oral and written representations should be included in licence fee charges.

Appeals

There is a right of appeal to the Magistrates' Court against a decision to refuse a licence application, to include a condition within the licence, to revoke the licence or to vary the licence. The costs associated with appeals and the costs of defending an appeal in the Magistrate Court should not be included in licence fee charges.

The costs associated with defending a Judicial Review into whether the local authority has failed to have regard to the guidance on fees is not chargeable under the licence regime.

Revocation of a licence and formulating and imposing licence conditions

If a licence has been granted, it may be revoked or licence conditions imposed on a scrap metal dealer if the subsections within Clause 4 of the Scrap Metal Dealers Act are triggered. A local authority may impose conditions pending an appeal against revocation (section 4 (7)) or if the applicant or site manager has been convicted of a relevant offence (section 3 (8)).

Variation of licence

Schedule 1 paragraph 3(1) indicates that a local authority may, on an application, vary a licence by changing it from one type to another and (2) if there is a change in any of the matters mentioned in section 2(4)(a), (c) or (d) or (6)(a).

These changes should be recorded by the local authority. The applicant is also under a duty to notify any convictions for relevant offences to the local authority. These measures ensure that a single record will be held of the licence holder's history in terms of licensing matters.

National Register of Scrap Metal Dealers

Whilst a local authority can recover any costs incurred in transmitting information about a licence, the costs which the Environment Agency incurs are not chargeable under the licence regime.

How long will a licence be valid for?

Schedule 1 paragraph 1 of the 2013 Act specifies the terms of a licence. It indicates that a licence expires at the end of the period of 3 years beginning with the day on which it is issued.

Additional regulations and guidance

The Home Office will be publishing regulations in relation to relevant offences and the identification required to sell scrap metal over the summer of 2013. These regulations will be published on www.gov.uk. We will also be working with the Local Government Association, the British Metal Recycling Association and British Transport Police to produce additional guidance on the requirements of the new act.

The Local Government Association guidance will include a breakdown of reasonable timescales for each of the activities associated with setting a fee.

Annex A - Definitions

What is a local authority?

'Local authority' means —

- (a) in relation to England, the council of a district, the Common Council of the City of London or the council of a London borough;
- (b) in relation to Wales, the council of a county or a county borough.

What is a scrap metal dealer?

21 'Carrying on business as a scrap metal dealer' and 'scrap metal'

(2) A person carries on business as a scrap metal dealer if the person—

- (a) carries on a business which consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought, or
- (b) carries on business as a motor salvage operator (so far as that does not fall within paragraph (a)).

What is a mobile collector?

'Mobile collector' means a person who—

- (a) carries on business as a scrap metal dealer otherwise than at a site, and
- (b) regularly engages, in the course of that business, in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door.

What is a motor salvage operator?

(4) For the purposes of subsection (2)(b), a person carries on business as a motor salvage operator if the person carries on a business which consists —

- (a) wholly or partly in recovering salvageable parts from motor vehicles for re-use or sale and subsequently selling or otherwise disposing of the rest of the vehicle for scrap,
 - (b) wholly or mainly in buying written-off vehicles and subsequently repairing and reselling them,
 - (c) wholly or mainly in buying or selling motor vehicles which are to be the subject (whether immediately or on a subsequent re-sale) of any of the activities mentioned in paragraphs (a) and (b), or
 - (d) wholly or mainly in activities falling within paragraphs (b) and (c).
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