

# LICENSING COMMITTEE



Report subject	<b>Fee Review - Gambling Act, Scrap Metal, Pleasure Boats, Sex Establishments and Licensing Act</b>
Meeting date	26 January 2023
Status	Public Report
Executive summary	<p>The purpose of this report is for the Licensing Committee to consider a cost of living increase in of the non-statutory set fees charged for licences/registrations which are administered by the Licensing Committee.</p> <p>The fees under review are as follows:</p> <p>The Gambling Act 2005 sets statutory fees for certain activities. In addition the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 and the Gambling (Temporary Use Notices) Regulations 2007 allows local authorities to set fees up to a statutory maximum for certain types of premises such as casinos, bingo halls and betting shops.</p> <p>Scrap Metal Dealers Act 2013 sets the framework for issuing licences for scrap metal collectors and sites. The legislation allows local authorities to set fees to cover the costs of administering the licences and includes any necessary compliance checks.</p> <p>The Public Health Acts Amendment Act 1907 (Section 94) and the Local Government (Miscellaneous Provisions) Act 1976 (Section 18) governs the licensing of pleasure boats which are hired and self-driven or provide passage for up to 12 passengers.</p> <p>Local Government (Miscellaneous Provisions) Act 1982 (Schedule 3) and the Policing &amp; Crime Act 2009 (Section 27) legislate the licensing of sexual entertainment and sex establishments. Schedule 3, para 19 states that an application for the grant, variation, renewal or transfer of a licence under this Schedule shall pay a reasonable fee determined by the appropriate authority.</p> <p>The Licensing Act 2003 sets the national fees all Local Authorities can charge for the administration of all licenses under the Act which includes the annual fees. The fees were set when the legislation was created in 2005 and there has been no review of these fees since then.</p>

<p><b>Recommendations</b></p>	<p><b>It is RECOMMENDED that:</b></p> <p><b>Councillors</b></p> <p><b>1. Consider the proposed fees as set out in the appendices of this report and</b></p> <p><b>a) Agree the proposed fees as stated; or</b></p> <p><b>b) Agree any amended fees they deem fit; or</b></p> <p><b>c) Maintain the current fee structure.</b></p>
<p>Reason for recommendations</p>	<p>Increases in Officer salaries and supplies mean that all fees need to be reviewed and increased in line with inflationary changes for 2022 and to reflect predicted increases for 2023.</p>

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Wards	Council-wide
Classification	For Decision

## Background

1. The current non statutory licensing fees were agreed by the Licensing Committee at their meeting on 4<sup>th</sup> March 2021. Since then, the officer salaries and associated costs have increased. As such the fee levels have now been reviewed with the Finance Officer to take into account costs for this financial year.
2. There is uncertainty about any pay increases as we move forward into the next financial year. If and when any further pay rises are implemented a further review of the fees shall be made and reported to the Licensing Committee as necessary.
3. Reference has been made to the guidance as set out in the Local Government Association Guide to locally set fees. <https://www.local.gov.uk/open-business-lgaguidance-locally-set-licence-fees>
4. The fees are calculated by assessing the time it takes for each step in the application process for each function.
5. The estimated cost for the compliance checking has also been included where necessary. The time has been assigned to different roles and the costs based on hourly rates. There is also a proportion attributed to these fees for management time which will include the costs associated with running the Department and Services involved with delivering a function associated with one or more licensing regimes.
6. In calculating these fees officers have taken into account the Supreme Court's rulings in the Hemming case which dealt with the setting of fees on a cost recovery basis.
7. It is proposed that the fees will be implemented as of 1 April 2023.

### **Gambling Premises Licences**

8. The Gambling Act 2005 regulates the licensing regime associated with gambling premises.
9. The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (2007 Regulations) impose a cap on the maximum amount of fee that Licensing Authorities can charge for certain types of premises such as betting shops or bingo halls, in all other cases the fees are set by statute.
10. The regulations set out the maximum fees a local authority can charge for the administration of the regime.

11. The fees as set out in Appendix 1 show the current and proposed increased fees which will bring our fees to the maximum permitted to be charged.

### **Scrap Metal**

12. The legislation allows the local authority to set the fee required to administer the regime and ensure compliance. The income generated by the fees should not exceed the costs to the service.
13. The local authority must review the fees regularly to check whether they remain appropriate.
14. The fees are set out in Appendix 2 and show the current fee and the proposed fee.

### **Pleasure Craft (Class B and C) and Water Boatman Licences**

15. Section 94 of the Public Health Acts Amendment Act 1907 and section 18 of the Local Government (Miscellaneous Provisions) Act 1976 empowers Local Authorities licence pleasure boats and pleasure vessels to be let for hire (Class C) or to be used for the carrying of passengers for hire (Class B), and to the persons in charge of or navigating such boats and vessels and may charge for each type of licence such annual fee as appears to them to be appropriate.
16. The legislation covers any boat or craft with the capacity of up to 12 persons.
17. The fees are set out in Appendix 2 and show the current fee and the proposed fee.

### **Sex Establishment and Sexual Entertainment Venues**

18. The Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 s19 states that an application for the grant, variation, renewal or transfer of a licence shall pay a reasonable fee determined by the appropriate authority.
19. The current and proposed fees are set out in Appendix 2.

### **Licensing Act 2003 Statutory Set Fees**

20. Statutory fees for premises licences, club premises certificates, temporary event notices and personal notices are currently prescribed by the Licensing Act (Fees) Regulations 2005. The Licensing Authority has no control over these fees.
21. The statutory fee levels are set out in Appendix 3. These fee levels have not been revised or amended by Central Government since 2005.
22. The fees associated with applications and renewals in most cases does not cover the costs of administration of the regime.
23. For example, the fee for a Temporary Event Notice (TEN) is £21.00, these on average require at least an hour of officer time, however in the event the TEN received an objection this can then extend to over 4 hours officer time in arranging the sub-committee, writing reports, liaising with responsible authorities and the applicant. These objections often get mediated to agreement and don't go as far as Committee, however the preliminary work is still required just in case.
24. On average the cost to the Authority is £48.00 per application. We receive around 700 TEN's per year.

### **Options Appraisal**

25. Members are asked to consider the fees as proposed and

- a) Agree the proposed fees; or
- b) Agree amended fees following consideration; or
- c) Maintain the current fee structure.

### **Summary of financial implications**

- 26. The costs have been calculated taking into account increased costs incurred in the administration of the service which include the already agreed 22/23 salary increase.
- 27. Failure to review the fees will result in an increase in the gap between income and the costs incurred by the Authority.

### **Summary of legal implications**

- 28. The fees are required to meet the costs of the services and must be set in accordance with the legislation on a cost recovery basis. If the fees are set incorrectly this can result in judicial review.

### **Summary of human resources implications**

- 29. The delivery of the service will remain within existing staffing levels.

### **Summary of sustainability impact**

- 30. Not applicable

### **Summary of public health implications**

- 31. Not applicable

### **Summary of equality implications**

- 32. An Equalities Impact Assessment (EIA) screening document has been completed. It will be presented to the EIA panel on 19<sup>th</sup> January 2023.

### **Summary of risk assessment**

- 33. Not applicable

### **Background papers**

The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007  
<https://www.legislation.gov.uk/uksi/2007/479/contents/made>

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

Public Health Act 1907  
[Public Health Acts Amendment Act 1907 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1907/57)

Local Government (Miscellaneous Provisions) Act 1976  
<https://www.legislation.gov.uk/ukpga/1976/57>

Supreme Court ruling on the Hemmings Case

<https://www.supremecourt.uk/cases/docs/uksc-2013-0146a-judgment.pdf>

Licensing Act 2003 (Fees) Regulations 2005

[The Licensing Act 2003 \(Fees\) Regulations 2005 \(legislation.gov.uk\)](http://www.legislation.gov.uk)

## **Appendices**

1 - Gambling Act 2005 Fees

2 – Scrap Metal, Pleasure Boats and SEV Fees

3 – Licensing Act 2003 Fees