

LICENSING COMMITTEE



Report subject	Review of Licensing fees
Meeting date	7 March 2024
Status	Public Report
Executive summary	<p>The purpose of this report is to establish the licensing fees and charges that should apply from 1 April 2024 for the next three years for those licensing activities where the Council has discretion to do so.</p> <p>The statutory principle in relation to the setting of fees is that they should be reasonable and should relate to the costs of performing the function, including staffing, administration, testing, inspections, hearings, regulation and appeals.</p> <p>Inflationary increases to staff salaries mean that costs to provide the service have increased. A 4% uplift in fees has been applied to reflect these increased costs.</p> <p>The fees under review are as follows:</p> <p>Scrap Metal Dealers Pleasure Boats Sexual Establishments</p> <p>The fees charged under the Licensing Act 2003 are set by statute so cannot be amended by Local Authorities. The level of these fees have not been amended since they were first introduced in 2005.</p> <p>The fees charged under the Gambling Act 2005 are subject to a statutory maximum limit. Currently our fees are at this limit and cannot be increased any further.</p>
Recommendations	<p>It is RECOMMENDED that:</p> <p>Members consider the proposed fees and either</p> <p>a) Agree the proposed fees as stated or</p> <p>b) Agree amended fees following consideration</p> <p>c) Maintaining the current fee structure is not recommended</p>

	as this would mean the service is not able to operate on a cost recovery basis.
Reason for recommendations	Increases in Officer salaries mean that fees need to be reviewed and increased in line with increased costs.

Portfolio Holder(s):	Councillor Kieron Wilson Portfolio Holder for Housing and Communities
Corporate Director	Jillian Kay – Corporate Director for Wellbeing
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Wards	Council-wide
Classification	For Decision

Background

1. It is proposed that these fees will be implemented from 1 April 2024 if agreed.
2. In determining the fees reference has been made to the guidance as set out in the Local Government Association Guide to locally set fees. [LGA guidance on locally set licensing fees | Local Government Association.](#)
3. 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
4. The existing and proposed fees are shown at Appendix 1 and have been calculated to reflect the actual cost to BCP Council of providing the service which represents a 4 % uplift on fees from last year
5. In calculating these fees officers have taken into account the Supreme Courts rulings in the Hemming case which dealt with the setting of fees on a cost recovery basis. R (on the application of Hemming (t/a Simply Pleasure Ltd) and others) (Respondents) v Westminster City Council (Appellant) (supremecourt.uk) which concluded that the amount of fee set by the local authority precludes it from making a profit from the licensing regime.
6. A full account of the fee income and expenditure would therefore need to be considered to ensure a surplus is not being made. The finance officers undertake an annual review to ensure our fees meet this determination.

Scrap Metal

7. The Scrap Metal Dealers Act 2013 provides local authorities with the power to regulate these industries by providing a power to refuse to grant a licence and revoke licences if the dealer is considered 'unsuitable'. There are two types of licence issued.

Site Licence This requires all sites at which the licensee carries on business as a scrap metal dealer within the local authority area to be identified; and requires a site manager to be named for each site. They are 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.

Collector's Licence This 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.

8. Licenses last for 3 years unless revoked or surrendered.

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

9. Section 94 of the Public Health 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.
10. The legislation covers any boat or craft with the capacity of up to 12 persons which operate on inland waters only.
11. Licenses last for 1 year unless revoked or surrendered.

Sex Establishment and Sexual Entertainment Venues

12. The Local Government (Miscellaneous Provisions) Act 1982 Schedule 3, as amended by s.27 of The Policing and Crime Act 2009 sets out the statutory provisions for setting Sex Establishment fees
13. A Sex Establishment is defined as a Sex Shop, Sex Cinema or Sexual Entertainment Venue (SEV) (primarily lap dancing clubs).
14. A premises is not a Sexual Entertainment Venue if any relevant entertainment is only provided on eleven or less occasions during a twelve month period and, each of the occasions are at least one month apart.
15. Licences are valid for 12 months from the date of grant unless surrendered or revoked. A process similar to the granting of a new licence is to be followed for each renewal including consultation.

Options Appraisal

16. 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 fees.

Summary of financial implications

17. The costs have been calculated taking into account increased costs incurred in the administration of the service which include the salary increases.
18. 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

19. 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

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

Summary of sustainability impact

21. No sustainability impacts.

Summary of public health implications

22. No public health implications.

Summary of equality implications

23. An Equalities Impact Assessment (EIA) screening document has been completed. It will be presented to the EIA panel on 28 February 2024

Summary of risk assessment

24. If fees are not calculated appropriately the service will not recover sufficient income to cover costs.

Background papers

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/public-health-act-1907)

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>

Appendices

Appendix 1 – Existing and proposed fees