

# Arun District Council

<b>REPORT TO:</b>	<b>Licensing Committee - 9 December 2022</b>
<b>SUBJECT:</b>	<b>Licensing Fees and Charges</b>
<b>LEAD OFFICER:</b>	<b>Karl Roberts, Director of Growth/Nat Slade, Group Head of Technical Services</b>
<b>LEAD MEMBER:</b>	Councillor Grant Roberts
<b>WARDS:</b>	<b>All</b>
<b>CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION:</b> Delivering licensing functions will assist business within the district and contribute to the aim of fulfilling Arun's economic potential.	
<b>DIRECTORATE POLICY CONTEXT:</b> Fees to be levied for services in accordance with the relevant provisions.	
<b>FINANCIAL SUMMARY:</b> Where possible, fees are calculated on a cost recovery basis. This does not mean that the service can operate at zero cost as many activities sit outside the scope of what can be charged for. Setting the fees at cost recovery prevents burden on the taxpayer.	

## 1. PURPOSE OF REPORT

- 1.1. This report seeks approval from Members for the specified proposed fees and charges to come into effect from 1 April 2023.

## 2. RECOMMENDATIONS

- 1.2. The licensing fees set out in appendix 1 are approved to be effective from 1 April 2023.

## 2. EXECUTIVE SUMMARY

- 2.1. Several processes undertaken by the licensing function are chargeable. The licensing fees and charges specified in this report are presented for approval on an annual basis. Fees and charges are calculated considering relevant statute and guidance. It is recommended that fees and charges are regularly reviewed to ensure that they are set at the correct level.

## 3. DETAIL

- 3.1. Several licensing regimes allow for calculation and setting of fees at a local level. This report provides information to Members regarding how specified fees have been calculated and asks them to set them to agree fees for specified regimes to take effect on 1 April 2023.

- 3.2. The general principle is that the council should seek to recover its costs in relation to the authorisation procedures and formalities of each regime.
- 3.3. Some fees regimes are set on a national basis which the District Council has no power to amend. Some regimes allow for the charge of a reasonable fee to cover costs up to a capped limit set by government. Some statute permits for the setting of local fees to recover costs.
- 3.4. When setting fees locally, calculations can consider any surplus or deficit and adjust proposed fees accordingly. This means that fees may fluctuate year on year based on income and costs associated with each regime. This can be steadied by taking incremental approaches to increases or decreases.
- 3.5. The continued development of software allows the delivery of the service in more efficient ways and helps to temper some of the rising costs to the authority.
- 3.6. The European Union Services Directive – 2006/123/EC was given effect in UK law via the Provision of Services Regulations 2009 (SI2009/2999). The Directive and Regulations contain provisions about the fees which may be charged under relevant licensing regimes within the scope of the Directive. In particular licensing authorities may not set fees which are dissuasive, and any fees must be reasonable and proportionate to the cost of the licensing process and the issuing of a licence. The provisions have been considered with the proposals in this paper. The Group Head for Technical Services has requested full cost recovery for each regime where the costs are set locally and not capped.
- 3.7. In addition to the above a Supreme Court judgement has provided clarification that for regimes that fall within scope of the Directive, application costs must be split so that charges for the application through to determination are charged separately from the costs of ongoing operating and compliance costs of regimes. Where fees fall within scope of the relevant Directive, the costs have been divided into parts.
- 3.8. In response to customer demand, it is proposed to introduce a new street trading consent for single stalls for one off events. This is proposed in the charging structure. This should better support small community events, the number of which have dramatically increased recently within the district.
- 3.9. Fees that are set by central government that are not required to be part of a decision-making process are omitted from this paper.
- 3.10. Stray dog charges are also included with this paper as this work sits within the remit of the service area.

#### **4. OPTIONS / ALTERNATIVES CONSIDERED**

- 4.1. There are not viable alternatives identified. Fees must be approved before they can be levied.

## **5. COMMENTS BY THE GROUP HEAD OF FINANCE/SECTION 151 OFFICER**

6.1 The proposed fees are set on a cost recovery basis as per guidance. I have no comment to make.

## **6. RISK ASSESSMENT CONSIDERATIONS**

6.1. Not applicable

## **7. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER**

8.1 The Council has statutory responsibility for the administration and enforcement of a wide range of licences, registrations and permits. Many of these schemes allow the Council to charge a fee, payable by an applicant for a licence, in order to cover the costs (or a proportion thereof) of the administration of those licence types. In some cases, costs are also permitted to cover other aspects of providing the regulatory scheme.

8.2 The basis in setting such fees is generally to ensure full cost recovery, or as close to it as possible. Numerous legal cases over the years have confirmed that licensing fees may not be used to generate a profit for councils, and that fees should be reviewed annually to ensure that neither a significant surplus nor deficit is created. Surpluses or deficits may be carried forward to future years to be redistributed (within the ring-fenced licensing budget), or recouped, as applicable.

8.3 Many licensing schemes fall within the definition of 'services', under the EU Services Directive, as incorporated by the Provision of Services Regulations 2009. For such schemes, fees and charges 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". This principle was affirmed by the courts in *R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council*. Fees must reflect administrative, policy and compliance costs, but cannot include the costs of enforcement action against unlicensed operators.

## **8. HUMAN RESOURCES IMPACT**

8.1. Not applicable

## **9. HEALTH & SAFETY IMPACT**

9.1. Not applicable

## **10. PROPERTY & ESTATES IMPACT**

10.1. Not applicable

## **11. EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE**

11.1. Not required

## **12. CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE**

12.1. Not applicable

## **13. CRIME AND DISORDER REDUCTION IMPACT**

13.1. Not applicable

## **14. HUMAN RIGHTS IMPACT**

14.1. No comments

## **15. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS**

15.1. No comments

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### **CONTACT OFFICER:**

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### **BACKGROUND DOCUMENTS:**

Proposed fees and charges with current costs

Open for Business: LGA Guidance on Locally Set Licence Fees

[https://www.local.gov.uk/sites/default/files/documents/5%2013%20%20OpenForBusiness\\_02\\_web.pdf](https://www.local.gov.uk/sites/default/files/documents/5%2013%20%20OpenForBusiness_02_web.pdf)

Provision of Services Regulations 2009

[http://www.legislation.gov.uk/uksi/2009/2999/pdfs/uksi\\_20092999\\_en.pdf](http://www.legislation.gov.uk/uksi/2009/2999/pdfs/uksi_20092999_en.pdf)