

Arun District Council

REPORT TO:	Licensing Committee 23 February 2024
SUBJECT:	Licensing Fees
LEAD OFFICER:	Karl Roberts – Director Growth
LEAD MEMBER:	Councillor Blanchard-Cooper – Chair of Licensing
WARDS:	All
CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION:	
<p>Licensing fees are used to support delivery of the licensing service, ensuring Arun's economic potential and wellbeing, through regulation of licensable activities and premises.</p> <p>This review of licensing fees is consistent with the Council's Financial Strategy was adopted by Full Council on 10 January 2024 and set out a four-year action plan that included, Maximise cost recovery – For many services the level of fees that can be charged is limited by the principle of 'cost recovery'. A comprehensive review of all charges will ensure that any fees and charges are truly representative of the actual cost of delivering services.</p>	
DIRECTORATE POLICY CONTEXT:	
<p>The licensing service sits within the Growth Directorate. The current licensing fees and charges were approved by Licensing Committee on 9 December 2022.</p>	
FINANCIAL SUMMARY:	
<p>Where possible, fees are calculated on a cost recovery basis. This does not mean that the service operates at zero cost as many activities either have statutory fees or legal maximum fees, as well as other activities which are not chargeable.</p>	

1. PURPOSE OF REPORT

- 1.1 This report seeks approval for the proposed licensing fees for 2024-25.

2. RECOMMENDATIONS

- 2.1 That Licensing Committee adopt the licensing fees as set out in Appendix 1, to be effective from 1 April 2024.

3. EXECUTIVE SUMMARY

- 3.1 This report sets out recommended fees for the licensing service for 2024-25 following a detailed review. The fees recommended are based on cost recovery.

4. DETAIL

- 4.1 Certain licensing regimes allow for calculation and setting of fees at a local level. These fees are reviewed on an annual basis to ensure they are set appropriately, with recommendations made to committee for the fees to be adopted for the coming financial year.
- 4.2 Some fee regimes, such as those under the Licensing Act 2003, are set on a national basis which the Council has no power to amend. Other regimes allow for the charge of a reasonable fee to cover costs up to a capped limit set by government.
- 4.2 Where the fees can be set at a local level these have been recommended adopting a full cost recovery principle. Consideration is also given to any surplus or deficit and the fees adjusted accordingly.
- 4.3 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 as part of the proposals in this report.
- 4.4 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.
- 4.5 New fees recommended for 2024-25 include an additional pre-application advice fee. Currently the licensing team provide a significant quantity of advice prior to applications being made for which in most cases there is currently no fee for costs to be recovered, except for Licensing Act matters. The new fee will ensure the council recovers some of the costs associated with providing advice, however short telephone and email enquiries, which can be dealt with in less than 30 mins will still be responded to without attracting a fee.
- 4.6 Changes have also been made to the way taxi driver applications are made, requiring payment to be made on application. This addresses previous issues where applications were abandoned or withdrawn before final determination and the council was unable to recovery costs incurred because in previous years fees were not required until determination.

- 4.7 A fee incentive is also being recommended for taxi vehicle applications to help encourage early adoption of full electric and plug-in hybrid vehicles as was committed to when the revised taxi policy was reported to licensing committee on 15 December 2023. By offering a discounted fee the council will forgo a modest amount of income in the order of £500 in 2024-25, based on the current number of electric and hybrid taxi vehicles.
- 4.8 Fees that are set by government are not required to be part of a decision-making process and are omitted from this report.
- 4.9 Stray dog charges are included with this report as this work falls within the remit of the licensing service.
- 4.10 The recommended fees for 2024-25 are provided in Appendix 1.

5. CONSULTATION

- 5.1 No external consultation has been undertaken.

6. OPTIONS / ALTERNATIVES CONSIDERED

- 6.1 Not to review or revise the licensing fees. Failure to regularly review the fees creates a potential risk of challenge and that the fees may not be set at a level that ensures appropriate cost recovery.

7. COMMENTS BY THE GROUP HEAD OF FINANCE/SECTION 151 OFFICER

- 7.1 Licensing fees have been calculated in accordance with guidelines, these will be monitored in accordance with financial reporting.

8. RISK ASSESSMENT CONSIDERATIONS

- 8.1 If fees are not set at an appropriate level by committee they may be subject to challenge. Setting fees at an appropriate level also ensures the council is best able to recover costs associated with delivering the licensing service.

9. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

- 9.1 The Council has statutory responsibility for the administration and enforcement of a wide range of licences, registrations and permits in Appendix 1. 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.

- 9.2 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.
- 9.3 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

10. HUMAN RESOURCES IMPACT

- 10.1 There are no direct human resource impacts from the proposals in this report.

11. HEALTH & SAFETY IMPACT

- 11.1 There are no direct health and safety impacts from the proposals in this report.

12. PROPERTY & ESTATES IMPACT

- 12.1 There are no direct Property and Estates impacts from the proposals in this report.

13. EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE

- 13.1 There are no direct equalities impacts from the proposed fees as these are set on a cost recovery basis. Occasional Street Trading Consent fees are proposed to be waived for those operating on a not-for-profit basis.

14. CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE

- 14.1 A discounted fee is being recommended for taxi vehicle applications where a plug-in hybrid or full electric vehicle is being licenced. It is intended to incentivise early adoption of vehicles which have lower carbon emissions and will therefore have a positive impact on climate change and air pollution.

15. CRIME AND DISORDER REDUCTION IMPACT

15.1 There are no direct crime and disorder impacts from the proposals in this report.

16. HUMAN RIGHTS IMPACT

16.1 There are no direct human rights impacts from the proposals in this report.

17. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

17.1 There are no direct freedom of information or data protection impacts from the proposals in this report.

CONTACT OFFICER:

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BACKGROUND DOCUMENTS:

Appendix 1 – Proposed Licensing Fees and Charges 2024-25

[Licensing Fees Report - 9 December 2022](#)

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

Provision of Services Regulations 2009:

http://www.legislation.gov.uk/uksi/2009/2999/pdfs/uksi_20092999_en.pdf