

Slough Borough Council

Report To:	Licensing Committee
Date:	5 th February 2024
Subject:	Non-Executive (Licensing) Fees and Charges
Chief Officer:	Adele Taylor – Executive Director, Finance & Commercial (Section 151 Officer)
Contact Officer:	Neil Haddock – Interim Strategic Finance Manager, Financial Planning & Reporting Russell Denney-Clarke – Trading Standards and Licensing Manager Kam Hothi – Network Lead – Parking, Highways & Streetworks
Ward(s):	All
Exempt:	NO
Appendices:	Appendix A – Fees and Charges Framework Appendix B – Non-executive (Licensing) fees and charges.

1. Summary and Recommendations

1.1 This report seeks approval of fees and charges for non-executive functions related to licensing.

Recommendations:

The Committee is recommended to:

Approve the fees for licensing functions as per Appendix B for the year 2024/25, except those marked “for noting only”.

Reason: As a non-executive function, the fees and charges for licensing functions must be approved by the Licensing Committee and set for the coming financial year.

Commissioner Review

The income from fees and charges helps to manage demand and cover costs for providing services. Inflationary increase of 6.7% has been applied where a standard inflationary rise is appropriate. The proposals include some new fees and charges and in some exceptional cases it is recommended that a different approach is taken and fees and charges either reduce, remain the same or increase at a rate above inflation. Further details need to be provided of these exceptions for inclusion in this report including benchmarking where available.

2. Report

Introductory paragraph

2.1 The fees for licensing functions must be ring fenced and be set at the cost for providing the function. Fees and charges are usually set annually but may in certain circumstances be increased during the year to ensure the licensing function is properly costed. Some fees are set by central government and these cannot be changed by the committee. These are also outlined within the appendices and explained in further detail in the Legal Implications section. There has been a wholesale review of all the fees and charges which the Council charges and this includes the fees for the Licensing team. As part of the review, consideration has been given to the local economy which the licensing regime supports and where applicable the fees remain reasonable. Where rises are above the prevailing rate of inflation the price has been adjusted in line with the cost of providing that service.

2.2 Where fees have increases, this has been broadly in line with the September rate of inflation as measured by the Consumer Price Index (CPI), a rate of 6.7%. There are minor variations to this that are matters of rounding. There are also a significant number of charges that have been left unchanged.

2.3 In particular, the following fees where there is discretion to increase charges are being proposed to have no increase:

i Sex Establishments

It is considered that there is already full cost recovery in place for Sex Establishments, as the original fee was set at a level intended to deter the establishment of such venues. As such no increase is proposed

ii Street Trading / Ice Cream Sellers

The rationale for there being no increase in license fee for these areas is that it might push fees beyond what the market might bear, and that there would be a loss in income. This would be particularly counterproductive in areas that the Council wishes to encourage, for example for a vibrant Town centre.

iii Scrap Metal

It is considered that there is already full cost recovery in place for Scrap Metal and as such there is no scope to increase the current fee. the original fee was set at a level intended to deter the establishment of such venues. As such no increase is proposed

2.4 There is a completely revised fee structure in place for licences for Hoarding and Scaffolding, from a fixed fee for a given period of time regardless of the time this was in place, or dimensions of the scaffolding to one where the fee is tiered depending on the type of road, size of hoarding or scaffolding, and the length of time it is in place. A review of the fee structures in surrounding authorities was undertaken, and the proposed structure is similar to the one in place in the Royal Borough of Windsor and Maidenhead, but around 10% lower than those fees.

2.5 In the light of the comments from the Finance Commissioner further work is being undertaken to confirm full recovery costs in respect of the following:

Crane licence, cherry picker and scaffolding/hoarding licences.

This information will be circulated in an addendum and presented at the meeting by the Network Lead – Parking, Highways & Streetworks

Options considered

Option 1 To seek formal approval of the Fees and Charges outlined in this report. **This is recommended.**

Option 2 To not approve the Fees and Charges outlined in this report. **This is not recommended.** It would mean that the costs of providing the services against which the charges are made are increasing in line with inflation, and the fees and charges applied are not, which would have a negative budgetary impact.

Background

3. Implications of the Recommendation

3.1 *Financial implications*

3.1.1 Where the fees are not set by central government, there is a provision for cost recovery including, where appropriate, in line with inflationary cost increases. The fees which are not proposed to be raised are to ensure that they remain reasonable with the area and to support the local economy. Appendix B has the fee for the full fee and where appropriate these will be charged as Part A and Part B fees as outlined below in section 3.2. This will also reflect the Fees and Charges Framework approved by Cabinet at its 9th March 2022 meeting (for executive related functions) and 10th March 2022 Council meeting (for non-executive related functions) and included as Appendix A.

3.2 *Legal implications*

3.2.1 As noted earlier, a number of fees and charges are prescribed by statute (eg. Licensing Act 2003 (Fees) Regulations 2005), as a set amount (in which case it is noted as 'statutory prescribed' in Appendix B). For other fees and charges the relevant legislation may provide that a charge can be made for providing the service but the amount of the charge is discretionary, within the remit of the legislation, often limited to cost recovery only, or a reasonable amount, or within a range/maximum amount. The authority therefore sets the amount of the charge accordingly. These are noted as 'statutory discretionary' in Appendix B. Some of the regimes in Appendix B are covered by the European Services Directive and the Provision of Services Regulations 2009, which implements the Directive. This requires that fees charged in relation to authorisations must be reasonable and proportionate to the cost of the process, and the European Court of Justice ruling in the *R on the application of Hemming v Westminster City Council case [2017] UKSC 50* which confirmed that a fee covering the administration costs of processing an application should be charged separately from the charge (to successful applicants) for enforcing the regime. It is not possible to charge one fee at the outset and then refund unsuccessful applicants the enforcement part of the fee. The two must be charged separately. The Local Authorities (Functions & Responsibilities)

Regulations 2000 sets out what fees and charges cannot be set by the Executive (i.e. Cabinet) as the functions to which they relate are non-Executive functions. The fees and charges in Appendix B are those that Council should set (through this Committee), with the exception of those which are prescribed, and therefore for information only.

3.2.2 Under Part 3.4 of the Council's Constitution, the Licensing Committee has responsibility to approve fees and charges for the following functions where they are not executive functions or reserved to Council: private hire and hackney carriages, the Licensing Act 2003, Gambling Act 2005, food safety and control, animal health, welfare, safety and control and other licensing and registration functions including caravan sites, markets, street trading, scrap yards, sports grounds, special treatments and sex establishments.

3.3 *Risk management implications*

3.3.1 There is a risk that increasing fees and charges in line with inflation may have a negative impact on service uptake. This will be monitored and reported on through the normal budget monitoring process. This risk must be balanced against the risks of an increasing budget gap as costs increase without a corresponding increase in fees.

3.4 *Environmental implications*

3.4.1 None

3.5 *Equality implications*

3.5.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age, race, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation. An initial Equalities Impact Assessment (screening) has been conducted and has found no adverse impacts on any of the protected groups.

3.6 *Procurement implications*

3.6.1 None

3.7 *Workforce implications*

3.7.1 None

3.8 *Property implications*

3.8.1 None

4. Background Papers

Cabinet 9th March 2022 - Fees and Charges Framework (Executive Functions)

Council 10th March 2022 – Fees and Charges Framework (Non-Executive Functions)