

Title of report: Licensing Fee increase 2021.2022

Decision maker: Cabinet member housing, regulatory services, and community safety

Decision date: 16th April 2021

Report by: Service manager licensing, gypsy traveller & technical support services

Classification

Open

Decision type

Non-key

Wards affected

(All Wards);

Purpose

To agree the updated licensing charges across all chargeable licences and services in line with the council's full cost recovery policy.

Recommendation(s)

That:

- a) The licensing service charges are agreed, and updated in line with full cost recovery as set out in Appendix 1;
- b) The proposed fees in relation to Taxi and Private Hire fees are required by the Local Government (Miscellaneous Provisions) Act 1976 s 70 (2) to be advertised in a local paper, Herefordshire Council Website and on the Council's Social Media page, giving a period of no less than 28 days for objections. If objections are received authority is delegated to the Assistant Director for Regulatory, Environment and Waste to approve or make necessary amendments in line with the full cost recovery requirement; and
- c) Authority is delegated to the Assistant Director for Regulatory, Environment and Waste to approve future changes to charges across the licensing, and taxi licensing service.

Alternative options

1. Not to change the charges, this is not recommended as it would be in contradiction to the council's charging principles.
2. Change all fees according to a fixed percentage, this would not accurately reflect the cost of providing the different licence and service types therefore is not recommended.

Key considerations

3. All service processes and associated costs have been reviewed to ensure that the council's charging principles are being followed and full cost recovery will be achieved for services provided from 1 April 2021. The review is in line with updated advice regarding council staff overhead costs received from finance in January 2021.
4. Some licences are either exempt from charging a fee by legislation or fees are set by central government. Fees have been calculated to ensure that licence types are separated to ensure that income from one type is not used to pay for other categories of licence.
5. The council's charging principles aim to charge for all services where it is appropriate to do so, unless there are conflicting policies or legal reasons not to, and aim to maximise income from fees and charges by ensuring that charges reflect the full cost of provision and do not result in any profit to the council.
6. Contractor costs charged to the council for the delivery of the services are included in the cost calculations per licence type.
7. All charges except taxi and private hire are set out in appendix 1 and will be applicable on 1 April 2021 or as soon as possible thereafter. Charges relating to taxi and private hire will be advertised, as required by fees set under s70 (2) of the Local Government (Miscellaneous Provisions) Act 1976. Any objections will be considered by the Assistant Director for Regulatory, Environment and Waste who can approve or make necessary amendments.
8. All charges will be updated on the council website following advertisement.
9. There is no conflict with any council policy, strategy or service plan.
10. This decision does not amend existing policy nor raise new policy issues.
11. The fees for delivery of services are estimated by assessing the time it takes for each step in the process from receipt of application to determination. This will include the time taken by internal consultees, such as the Environmental Health, Trading Standards, Safeguarding, Legal, County Transport, and Governance. The fee review also takes into account any surpluses and deficits from previous years.
12. Although the Council has not received any applications or issued any licences for some regimes it still must set a fee to recover the costs of carrying out that function in the event

an application is made. In the cases where the council has not processed any applications or issued licences previously, the costs have been estimated based on similar types of application process and licences.

13. When considering licence fees, and in order to comply with the ruling by the Supreme Court in the Hemming case and with the Provisions of the Services Regulations 2009, any licence not issued will be reviewed for appropriate refunds, for amounts not consistent with the issue of the licence and any sums unused for future actions associated with holding the licence.

Community impact

14. Businesses who require a licence will be affected by the increases, although these businesses can incorporate the increase into their business operating costs.

Environmental Impact

15. None

Equality duty

16. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

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.
- d) There are no equality implications with this policy. The fees are set according to the individual licence type and there is no discretion in the amounts which can be applied for each application.

Resource implications

17. The council's charging principles aim to charge for all services where it is appropriate to do so, unless there are conflicting policies or legal reasons not to do so and aim to ensure that income from fees and charges reflect the full cost of provision, unless there are contrary policies, legal or contractual reasons.
18. The changes outlined in this report will ensure that full cost recovery is being achieved for the services provided to businesses.

19. The review of processes and proposed charges have been provided to the council's Economy and Place Finance Manager and agreed by the Assistant Director for Regulatory Environment and Waste.
20. This proposal seeks to address previous shortfalls resulting from increased service delivery costs to the council.
21. All charges are outlined in appendix A.

Legal implications

22. Fees chargeable in relation to licences granted and held under the Licensing Act 2003 are determined by central government on the basis that centrally set fees would remove previous inconsistencies in fee levels and ensure uniformity in fees across all areas of England and Wales. The council is not permitted to alter these fees.
23. Fees in relation to licences granted and held under the Gambling Act 2005 are set at the discretion of the council on the basis of cost recovery but cannot exceed the fee levels set out in the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007.
24. All the other regimes referred to in Appendix 1 are covered by Regulation 18 (4) of the Provision of Services Regulations 2009 which is clear that fees must be reasonable and proportionate to the cost of administering the licences both through the application phase and through the life of the licence. All fees must not exceed the cost incurred by the council in its role as the licensing authority.
25. If the proposed fee structure results in a surplus or loss, a reduction or increase in fees will be considered. Full review and adjustments will be considered over the 3-5 year period following implementation.

Risk management

- 26.

Risk / opportunity	Mitigation
Loss of income through reduced taxi trade business.	Licences are required as part of operating a business. Government grant and other funding assistance has been available for qualifying applicants to assist with loss of income.
The proposed increases will offer greater protection for the most vulnerable persons in our community by ensuring appropriate services are able to operate according to the requirements of the legislation.	Each licence has been calculated to take account of the operating cost with each type.
The reputation of the Council is better demonstrated and protected by the adoption of the revised fees, which mitigates the risk associated with poor control and regulation and non-compliance with the legislation and guidance.	Ensure all regulations are complied with.

Consultees

27. Once agreed, new fees to be advertised in relation to taxis and private hire for a period of 28 days.

Appendices

- Appendix A –Service Charges 2021-22 existing and proposed

Background papers

- None identified