

LICENSING REGULATORY COMMITTEE

Review of Licensing Fees for Animal-related Licensing 22 March 2018

Report of Chief Officer (Health & Housing)

PURPOSE OF REPORT

To review the costs and licensing fees for animal-related licensing to enable Members to approve the level of fee for 2018/19.

This report is public

RECOMMENDATIONS

- (1) That the licensing fees for animal-related licences be determined for 2018/19 on consideration of the information and options contained in this report.
- (2) That it be determined whether or not to charge an annual Part B licence fee within the current licence period for Williamson Park Zoo (prospectively) from 2018/19 onwards or commence from the next renewal period due in 2020/21.

1.0 Introduction

1.1 This report is concerned with the setting of the level of licence fees for 2018/19 for:

- Commercial animal boarding establishments
- Home boarding establishments
- Dangerous wild animals
- Riding establishments
- Pet vendors
- Dog breeding establishments
- Zoos

The setting of such fees is by law a non-executive function and therefore a matter for this Committee.

1.2 Licensing fees for the animal activities under consideration and referenced as part of this review are set according to the legislation specific to those premises:

- Animal Boarding Establishments Act 1963
- Dangerous Wild Animals Act 1976 as amended
- Riding Establishments Act 1964

- Pet Animals Act 1951
- Breeding of Dogs Act 1973
- Zoo Licensing Act 1981

Most licences, with the exception of dangerous wild animal, riding establishment, and zoo licences, run for a calendar year.

- 1.3 It is currently assumed that there will be in the region of 40 licensable activities needing licensing during 2018/19.

2.0 Setting Fees

- 2.1 The Council's Fees & Charges Policy states that when setting discretionary charges, the general aim is to cover the cost of the service, accurately reflecting the full cost of provision including recharges. Fees must be reasonable and proportionate however. The Fees and Charges Policy in relation to licensing fees offers a standard of good practice, although it is not legally binding on Licensing Regulatory Committee.

- 2.2 It is also a requirement of the Council's Fees & Charges Policy that fees be reviewed annually to ensure that costs are appropriately recovered. It is not lawful however, for the council to seek to make a profit from licence fees that are within its discretion.

3.0 Method of Fee Construction

- 3.1 Traditionally the fees charged for licences have included the costs of processing the application, the costs of monitoring compliance, and the costs of enforcing against unlicensed and licensed operators. Until recently, application fees have been payable in full at the time of making an application. However, the case of Hemmings v Westminster City Council has clarified the costs that local authorities can include when setting licence fees. The courts also concluded that the licence fee is essentially made up of two parts, A and B as follows:-

Part A is to cover the direct costs associated with processing the application, to the point where a decision is made and if appropriate a licence is issued. This includes handling applications and payments, and carrying out pre-licensing inspections.

The Part A fee is payable in full on submission of the application, and is non-refundable.

Part B is to cover the costs associated with running the licensing function. This includes investigating complaints, enforcement, and general administration.

The Part B fee would only become payable if a licence is granted, and would need to be paid before the licence becomes operational.

- 3.2 The methodology used to calculate fees is to allocate officer time throughout the year against each of the elements of Part A and Part B. The appropriate proportion of an hourly rate (constructed from direct costs and indirect costs for all officers involved in the process) is then applied and totalled to give an overall cost. Direct costs are made up of salaries and salary on-costs. Indirect costs (overheads) include support recharges, general accommodation and operational running costs and insurance.
- 3.3 The time allocations of the officers involved in animal licensing have been monitored over the period 1 January – 31 December 2017 for both Part A and Part B functions.

Any significant 'one-off' activities have not been included in the calculations as it is considered that this would be unreasonable / disproportionate to pass onto the current licensable activities.

The hourly rates for each officer, including salary on-costs and overheads, are then applied to the time allocations and divided by the number of licences in each category to give the cost per licence.

Appendix 1 compares the calculated cost of each licence to the current licence fee and shows the percentage change.

Dog breeding, riding establishment, zoo and dangerous wild animal licences require vet inspections and the cost of this is added to the licence fee.

- 3.4 **Zoo licences** are a special case. New licences are granted for a period of four years and are thereafter renewed for six-year periods.

New licences involve much work for the licensing authority; two months before making a licence application the applicant must give notice in writing to the authority of his intention to make the application, and this notice must be kept available by the authority for public inspection. The authority must also consult agencies including police, fire and DEFRA regarding the proposal and must take into account their representations in considering the application. The applicant must publish his notice of intention in a local newspaper and a national newspaper and must exhibit a copy of the notice at the site. Before granting or refusing a licence the authority must consult the applicant regarding proposed licence conditions in line with the Secretary of State's standards, and must be satisfied that the applicant has no relevant convictions and that planning permission has been granted where appropriate.

The legislation requires an inspection to be carried out every year; formal inspections involving a veterinary inspection are required in years 1 and 4 of a new licence, and in years 3 and 6 of a renewed licence; in all other years informal inspections are required and are carried out by officers.

The Council currently licenses one zoo (Williamson Park), and the licence was renewed for 6 years in 2015/16, the next renewal being due in 2020/21.

In order to fully recover the cost of the service, the fee for a new licence (issued for four years) needs to be set at four times the annual Part B cost from 1st April 2018 plus an additional Part A amount to cover the initial application processing.

Renewed licences; Similarly, the fee for a renewed licence (issued for six years) needs to be set at six times the annual Part B cost going forward. The legislation allows the local authority to accept payment by instalments if requested by the operator, which will help spread the costs more evenly across the relevant licence period for the licensee.

- 3.5 There are currently no licences issued for **Dangerous Wild Animals** and have not been for a number of years. This makes it difficult to calculate a fee, and so for the forthcoming licence period the Part B cost has been based on the average total being applied by neighbouring Local Authorities and is shown in Appendix 1. New licences are granted for a period of one year and are thereafter renewed for two-year periods. The annual cost for a renewed license has therefore been multiplied by two plus an additional estimated Part A amount to cover the initial application processing in line with how calculated for a zoo licence.

4.0 Recent Developments

There have been significant developments during the current year (2017/18):-

4.1 In February 2018 the **Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018** were published. These are due to come into force on 1 October 2018 and are expected to substantially increase officer workloads, noting that it is not possible to quantify the impact for related fees and charges at this stage, and so this will need to be closely monitored to inform future fee setting from 2018/19 onwards.

4.2 **Barking Mad and Primary Authority Agreement.** The Pet Industry Federation (PIF) is the UK trade association for pet businesses and has set up a primary authority partnership with the City of London Corporation as regards pet vendors and boarding establishments. Primary Authority partnerships make local regulation of businesses operating at multiple premises across the UK, more consistent.

The partnership has agreed Primary Authority Advice, which must be adhered to by all local authorities who have relevant PIF members in their districts. The Advice states that in the case of animal boarding franchises, only the franchisee requires a licence.

Barking Mad is a home boarding franchise with nine hosts in the Lancaster district. They are a member of the PIF and have joined the Primary Authority Partnership. Previously, all Barking Mad hosts were inspected and licensed annually but now only the local franchisee requires a licence. This means that substantially less inspection time has been employed in licensing Barking Mad in the current year, which has been reflected in their current licence fee and will result in a slightly reduced income of around £600 for the Council compared with that assumed in the 2017/18 budget and future years.

Under the Primary Authority Advice local authorities can inspect a 'sample' of host boarders. For the purpose of issuing a licence to Barking Mad for the twelve months commencing 1 January 2018, licensing officers charged a fee three times the home boarding fee on the basis of potentially inspecting three hosts (i.e. 33%) and/or dealing with any complaints made against Barking Mad etc. It should be noted however, that subject to legislation being implemented from 1 October 2018 as referred to under section 4.1, that this may well increase again going forward and so for now it is assumed that the income included in the 2018/19 budget will still be met.

5.0 Details of Consultation

Appendix 2 lists the animal licensing fees set by a number of other local authorities, for comparison purposes.

6.0 Options and Options Analysis (including risk assessment)

The options are;

Option 1 Fully recover all costs by charging the fees set out in **Appendix 1**.

Option 2 Increase fees by 2.6% in line with inflation.

Option 3. Propose an alternative fee structure.

	Option 1: Fully recover all costs	Option 2: Increase fees by 2.6% inflation	Option 3: Propose an alternative fee structure
Advantages	<p>Results in more income for the Council than currently budgeted for.</p> <p>Fully recovers costs.</p>	<p>Consistent with increases to other fees & charges within Health & Housing.</p> <p>More affordable for operators, most of whom are small businesses.</p> <p>More likely to meet budgeted income.</p>	<p>Members may wish to increase fees by more than 2.6% but below full cost recovery level, which may result in more income whilst still being affordable for the operators.</p>
Disadvantages	<p>Substantial price increase for some operators, most of whom are small businesses.</p>	<p>Does not fully recover the cost of providing the service, so loss of potential future additional income for the Council.</p>	<p>As option 2 but to a lesser degree.</p> <p>Alternative options would need to be further appraised to determine full budgetary impact for the Council.</p>
Risks	<p>Price increase may encourage unlicensed activity, hence risk to animal welfare.</p> <p>Increase in unlicensed activity requires additional reactive investigation and enforcement by officers.</p>	<p>None identified.</p>	<p>As option 1 but to a lesser degree.</p>

7.0 Conclusion

7.1 *Appendix 1* shows that the Council does not at present recover the full costs of

administering animal-related licensing. Full cost recovery for some categories of licence would require a substantial fee increase which some licence holders, typically small businesses, might find challenging. Members may instead choose to increase the fees by 2.6% in line with inflation as they've done in previous years, or may wish to propose an alternative % increase or fee structure.

CONCLUSION OF IMPACT ASSESSMENT
(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

No implications have been identified.

LEGAL IMPLICATIONS

Legal Services have been consulted and have no further comments to make.

FINANCIAL IMPLICATIONS

Members are reminded that animal licensing is a statutory function legislated by the relevant Acts listed within the report, although it is for the Local Authority to determine the appropriate charge.

It was previously reported at LRC's meeting on 1st June 2017 that the Council was not fully recovering its costs in the issuing of animal licenses and that a review would be undertaken during 2017/18 to enable future fees to be set as per the relevant legislative guidance and the Council's Fees and Charges policy.

The table below shows the outcome of this review in budgetary terms with Option 1 generating a surplus compared against the 2018/19 budget and Option 2 and demonstrates that the Council is currently under recovering its costs by at least £2,600, increasing to £3,800 for Option 2. Should Members opt for a different fee structure / percentage (i.e. Option 3), then this would need to be further appraised and fed into future financial monitoring reports to Cabinet as part of the Council's usual monitoring arrangements.

Licence Type	Licence No's	Option 1 £	Option 2 £
Horse Riding Establishment	4	1,100	600
Dog Breeders Licence	4	1,500	600
Pet Shop Licence	6	1,400	1,000
Animal Boarding (Commercial)	9	2,100	1,400
Animal Boarding (Home)	16	2,600	1,700
Zoo Licence	1	600	200
Total Licenses / Fee Income	40	9,300	5,500
2018/19 Budget		6,700	6,700
Estimated Budget Surplus/(Shortfall)		2,600	(1,200)

For information, Members should be aware that the difference between the total fee income under Option 2 and the 2018/19 budget shown above is mainly attributable to the Barking Mad and Primary Authority Agreement (as referred to under section 4.2) and so the budget may need to be reduced from 2018/19 onwards to reflect that fewer 'hosts' can be inspected under this agreement. This is still subject to the outcome of further legislation expected to come into force from 1st October 2018, however, and so will be kept under review. Similarly, fluctuations can often occur in year as the number of establishments applying for a licence can go up or down.

It should be further noted that zoo licences are renewed for a 6 year period and at present no charge has been included for Williamson Park in the 2018/19 Budget. Members could determine however, that the annual Part B costs should be fully recovered prospectively from 2018/19 onwards, (i.e. Year 4 of the current licence period), to include costs such as annual inspections and so for illustrative purposes an annual allocation has been included in the total fee income shown above. It should be noted that this will be cost neutral for the Council as the zoo is operated by the Council and so the corresponding expenditure and income will net off against each other overall.

BACKGROUND PAPERS.

Contact Officer: Sue Clowes

Telephone: 01524 582740

E-mail: sclowes@lancaster.gov.uk

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