

Slough Borough Council

Report To:	Licensing Committee
Date:	06 February 2023
Subject:	Non-executive (Licensing) fees and charges
Chief Officer:	Richard West
Contact Officer:	Russell Denney-Clarke, Trading Standards & Licensing Manager Rachael Rumney / Kam Hothi
Ward(s):	All
Exempt:	No
Appendices:	Appendix 1– Public Protection and Highways Fees & Charges

1. Summary and Recommendations

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

Recommendation:

To approve the fees for licensing functions as per Appendix 1 for the year 2023/24, 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 forthcoming financial year.

Commissioner Review

Commissioners have reviewed the report and made no observations.

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 appendix and explained in 3.2.1.

Background

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 providing that service. If a fee is set by Central Government these cannot be changed and are explained as set out in 3.2.1. 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. The appendix 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 frame work as included as a background paper.

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 the appendix). 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 the appendix.

Some of the regimes in the appendix 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 Hemming v Westminster City Council case 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 1 are those that Council should set (through this Committee), with the exception of those which are prescribed, and therefore for information only.

3.3 *Risk management implications*

3.3.1 The Council must ensure compliance with the European Services directive as mentioned above, and must also ensure that it has the power to charge for the services.. The charges should be set so that they remain reasonable and proportionate and considering cost recovery.

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

- * Fee Setting from LGA
- * Slough's Fees & Charges framework