

PART I – NOT DELEGATED

**14. REVIEW OF FEES AND CHARGES 2019/20**

**1 Summary**

1.1 To consider a review of discretionary fees and charges, with any adjustments to take effect from 1 April 2019.

**2 Details**

2.1 As part of the Council's strategic, service and financial planning process for 2019/20, the Policy & Resources Committee approved (Minute No PR20/18 refers) the assumption for services to factor into their forecasts a 2.5% increase in all fees and charges that are not set by statute. However, Heads of Service would need to take account of demand, affordability and vulnerability.

2.2 This report covers the discretionary fees charged for services provided by some of the enforcement components of Regulatory Services, which includes Licensing and Environmental Health Commercial (EHC).

2.3 In November 2017 the predecessor Committee agreed to increase discretionary fees for EHC following advice from Accountancy Practice. The budget was increased but individual/overall fees were not increased.

2.4 The principles of Article 13(2) of the governing EU Directive require that fees can only be set upon cost recovery and not set artificially high, to obtain revenue or seek to deter applications. Further legal implications are provided at 8.0.

2.5 The fees and charges relating to EHC functions concern skin piercing practitioner registrations, for both premises and the individuals attached to those premises. The fees are a one-off payment for a simple initial registration and not a periodic charge. The fees were increased by 2.5% for 18/19. Demand is small, vulnerability is not an issue

2.6 With respect to non EHC licensing fees, changes were implemented in October 2015 in relation to private hire operator fees, private hire/Hackney Carriage vehicle driver licences. These changes came into effect on 1 October 2015 as a result of the Deregulation Act 2015. Whilst the revised fees amount to an overall reduction in charge over the lifetime of the licence, applicants are now required to pay a larger initial fee upfront. Driver licences can now be valid for a period of three years as opposed to annually and operator licences can now be valid for five years. It should also be noted that a requirement to provide a yearly Enhanced Disclosure Check and DVLA check is carried out on a fee recovery basis and this is an extra £56.50 per driver per year.

2.7 The Licensing Team had originally proposed to undertake a thorough review of all fees by the end of October 2016 following changes to processes, procedures and suppliers. Although some changes were implemented in 2015, the comprehensive review planned for completion in 2016 could not be undertaken, owing to the resignation of the previous Licensing Officer in February 2016 and the subsequent inability to recruit a suitable full time successor to the role. A replacement Licensing Officer is now in post and has initiated this fee review.

2.8 For the same reason, a full review of all other licensing fees, such as street trading, scrap metal collectors and sites, and sex entertainment venues scheduled for 2016, did not take place.

- 2.9 For the information of the committee a large number of fees in licensing are set by statute law either by a fee figure or by a fee of up to a maximum level also set in statute law. It is worth noting that as with Environmental Health charges, licensing fees must be set on a cost recovery basis. No overall surplus should be made and any monies raised by licensing fees are legally required to be spent on the licensing service.
- 2.10 Having regard to Paragraph 2.9 above which limits local fee setting for some fees and the need to ensure fees are set on a cost recovery basis, it is considered necessary to fully review our fees based on existing and emerging working practices and staff structures. There has been an increasing amount of challenges to Local Authority licensing fees and Officers need to ensure our locally set fees are fully justified. The Licensing Officer is currently reviewing Licensing procedures and this would have an impact on the working practices and therefore the fee to be set.
- 2.11 It should be noted that much of the legislation that these fees are levied under requires them to be advertised to the public. Separate adverts may need to be placed in the local newspaper for the different types of Licence issued. At this time the cost of such advertising could negate any gain in income.

### **3 Options/Reasons for Recommendation**

#### **3.1 *EHC functions***

- 3.1.1 Any change in fees will only affect new applications and will not affect existing registrants. We already have five tattoo studios in the district and no new applications for premises registration are expected. We also have fifteen other establishments offering a range of other skin piercing services, such as acupuncture, ear piercing and dry needling
- 3.1.2 A report to Policy and Resources Committee on 10 December 2018 will recommend that the TRDC function be delegated to Watford Borough Council (WBC) from 1 April 2019. In the event of the recommendations being agreed it is important that our fees mirror those charged by WBC, as they will be carrying out all new initial registrations.
- 3.1.3 Currently WBC have a simple two tier fee structure. From 1 April 2019 they will charge £168 for a premises registration (we currently charge £126.50 for simple ear piercing or acupuncture through to £204.00 for tattoo studios). In contrast WBC will charge individual practitioners £52.50 (we currently charge £29.40).
- 3.1.4 The churn rate for practitioners is low, with 15 – 20 new registrations per year. The churn rate for premises is very low, with 5 – 10 per year.

#### **3.2 Licensing functions**

- 3.2.1 It is not proposed to increase licensing fees by inflation at the current time due to the existing fee review underway. The Licensing Officer will be presenting details of the review to the relevant Committee early in 2019. Officers have identified a decrease in licence income and this will be continued to be reported as appropriate through the BM process. Officers need a comprehensive understanding of the impact of new and evolving processes and procedures and the implications for the budget in order to fully justify any new fee proposals.

3.2.2 There will also be an increase to the knowledge test fee as we will require all new drivers to complete a training day and knowledge test with an external provider. This is currently under discussion for implementation.

#### **4 Policy**

4.1 The recommendations in this report are within the Council's agreed policy and budgets and are covered by the Regulatory Services Service Plan.

#### **5 Financial Implications**

##### **5.1 EHC Functions**

5.1.1 Due to the low churn rate in this industry, the relatively small sums involved and the fact that all registrations are one-off payments, the financial implications are minimal. If the WBC fee structure is applied, income for new premises registrations will increase by around £200 per annum (based upon 5 new premises at the lower TRDC rate – we are not expecting any new tattoo studios) and for practitioner registrations by £275 per annum (based upon an average of 12 new practitioner registrations).

##### **5.2 Licensing Functions**

5.2.1 At this time officers are unable to accurately estimate fee figures due to the number of recent procedural changes within the department.

5.2.2 Any subsequent variances to income streams will be reported as part of budget monitoring.

#### **6 Equal Opportunities Implications**

##### **6.1 Relevance Test**

Has a relevance test been completed for Equality Impact?	No
Did the relevance test conclude a full impact assessment was required?	No

#### **7 Risk Management and Health & Safety Implications**

7.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

7.2 The subject of this report is covered by the Regulatory Services Service plan. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this plan.

7.3 There are no risks to the Council in agreeing the recommendations. If the WBC fee structure is adopted there will be an increase in income

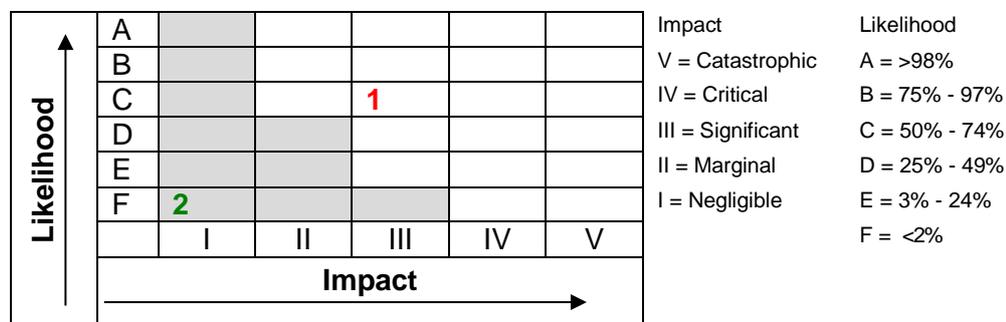
7.4 The following table gives the risks that would exist if the recommendation is rejected, together with a scored assessment of their impact and likelihood:

Description of Risk	Impact	Likelihood
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<b>1</b>	With respect to increasing licensing charges, there would remain the possibility of a challenge against any rise, owing to the circumstances given at 2.6 above	III	C
<b>2</b>	In rejecting the recommendation to adopt the WBC structure for EHC fees, there is the risk of challenge (to WBC) as they would not be set upon a cost recovery basis if delegation proceeds.	I	F

7.5 Of the risks detailed above none is already managed within a service plan.

7.6 The above risks are plotted on the matrix below depending on the scored assessments of impact and likelihood, detailed definitions of which are included in the risk management strategy. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood are plotted in the shaded area of the matrix. The remaining risks require a treatment plan.



7.7 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of treatment plans is reviewed by the Audit Committee annually.

## 8 Legal Implications

8.1 In December 2009 the Provision of Services Regulations 2009 came into effect. Regulation 18(4) states that any charges provided for by a competent authority which applicants may incur under an authorisation scheme 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.

8.2 Caution is urged in the application of any increase in fees that is over and above the rate of inflation and any increase in staffing costs. There is always the risk of Judicial Review, as illustrated by a recent case involving Westminster Council

## 9. Recommendation

9.1 That the Committee agree the following recommendation:

- a) For the EHC function, if the delegation of service is agreed by Policy and Resources Committee then TRDC fees will be set to match those of WBC. If the delegation is not agreed, then a 2.5% increase will be applied.
- b) For the Licensing function there is no current change to the fees.

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### Data Quality

Data sources:

Office of National Statistics Consumer Price Indices  
R (on the application of Hemming) and others v The Lord Mayor and Citizens  
of Westminster  
<http://www.jamesbutton.co.uk/Subscriber/Bulletins/JBCo%20June%20Bulletin%2013.pdf>

Data checked by:  
John Scott – Commercial Standards Manager  
Lorna Fryer - Licensing Officer

Data rating:

1	Poor	
2	Sufficient	x
3	High	