

# South Gloucestershire Council

**COMMITTEE:** REGULATORY COMMITTEE

**DATE:** 31<sup>st</sup> JANUARY 2019

**SUBJECT:** LICENSING SERVICE FEES & CHARGES 2019/20

**WARD:** ALL WARDS

## Purpose of Report

- 1 To determine the fee level change, if any, for this Licensing Authority to consult on in accordance with statutory provisions.

## Policy

- 2 Cabinet, at its meeting on 4<sup>th</sup> February 2008, agreed a draft charging policy for fees and charges, as shown at **Appendix 1**. This in particular recognised that in many cases charges were low, didn't recover full costs of services, and were lower than set by many other councils.
- 3 Policy was therefore set to ensure that the full cost of providing a service is met by the fees charged for licences and other authorisations.
- 4 Departmental policy is to annually review Licensing fees to take effect from 1<sup>st</sup> April each year, with any required increase or decrease agreed by Members as part of the Council's budgetary process.
- 5 Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 allows a District Council to charge such fees for the grant of vehicle and operator licences as will be sufficient to cover the reasonable costs of the control and supervision of hackney carriages and private hire vehicles in the district, providing taxi stands and inspecting vehicles.

The same section requires that the following procedures are followed when making changes to fees:

- 5.1 A notice of the proposed changes must be published in at least one local newspaper circulating in the district. The notice must specify a period of at least 28 days from the date of publication when objections can be made to the Council.
- 5.2 A copy of the published notice must be made available at the district offices for public inspection, free of charge at all reasonable times.
- 5.3 If there are no objections, or those made are withdrawn, the variation in the fees comes into effect on the expiration of the time allowed for public consultation in the notice.

5.4 If there are objections, and they are not withdrawn, the Council must set a date within two months of the expiry date for public consultation, and then consider the objections made before agreeing the fees.

- 6 'Full cost' includes the cost of support services and capital charges and is calculated according to the provisions of the CIPFA Service Reporting Code of Practice (SERCOP).
- 7 There are a range of licences and other authorisations administered by the Licensing Service, some of which are the responsibility of Regulatory Committee to set, and some which are set nationally. Most of the legal provisions covering these licences and authorisations permit the local authority to recover the cost of administering the licences and authorisations.
- 8 This report covers those fees and charges that come under the Regulatory Committee's remit, alongside current statutory fees and charges set under the Licensing Act 2003 and Gambling Act 2005.

## **Background**

- 9 Fees and charges for the Department for Environment and Community Services are updated on an annual basis to take into account expected increased costs for the Council in the forthcoming financial year.
- 10 Regulatory Committee agreed the present Licensing Service final fees and charges for 2018-19. A copy of the current Licensing Service fees and charges are shown at **Appendix 2**.
- 11 The Committee can be advised that this Licensing Authority currently still does not have the power to determine and set fees locally for processes under the Licensing Act 2003, and some processes under the Gambling Act 2005.
- 12 The case of Hemming and Others v Westminster City Council has been heard in the European Court of Justice during 2016, with all local authorities paying attention to the expected outcome. Reasonable and proportionate licensing fees and charges can be set by local authorities to recover reasonable costs for administration, compliance checks, policy development and Sub-Committee provision.
- 13 The principles of the above legal case have been acknowledged and used in calculating the proposed fees and charges for 2019/20, to ensure a cost-neutral service.

## **The Issues**

- 14 The budgeted full cost of the Licensing Service in 2019/20, analysed according to the breakdown of costs required by the CIPFA Regulatory Services Statistics, is shown at **Appendix 3**. The projected costs, direct and indirect, are fully set out under the 'Cost' tab, including that for Technical Support which administers all processes under the eight licensing functions.

- 15 The relevant costs for all the processes under each licensing function have been factored in from the direct and indirect costs, so that a proportionate hourly rate can be applied for Licensing staff and Technical Support staff respectively.
- 16 As part of the fee setting process an analysis of the expected service demand and expected work hours has been calculated. This has shown that the expected demand is the equivalent of needing two additional licensing enforcement officers. It is therefore proposed to employ two additional officers on a limited term contract with a review during the year to further assess demand.
- 17 The proposed amended fees and charges for 2019/20 are shown in Appendix 4 but show no change from 2018/19 levels.
- 18 Whilst the Licensing Service has continued to make efficiencies through the development of a procedurised UNIFORM database, Hackney Carriage and Private Hire Licensing Service demand, in terms of numbers, has seen another significant increase on the previous year.
- 19 The continued demand has required a continual management review of staffing levels to support this and additional licensing officers are proposed as part of this report.
- 20 In addition, direct costs have also been factored in to propose continue part funding of the Taxi Police Officer, PC Patrick Quinton, in partnership with Bristol City Council. The work of the Police Officer is to ensure compliance of current licensed operators, vehicles and drivers, and work undertaken will continue to be recorded on the Council's database and followed up by or with Licensing Officers where required.
- 21 Other indirect costs have been subject to current national inflation.
- 22 It is proposed that in order to maintain fee levels despite increasing resource demand that the current account balances, as part of the 3 year plan, will be used to maintain Hackney Carriage and Private Hire fees and charges at 2018/19 levels.
- 23 The Committee may also note that Licensing Authorities are not able to set fees and charges for all licensing functions, there is currently no legal mechanism for public collections (House to House, and Street).

## **Consultation**

- 24 The legal requirements for advertising Hackney Carriage and Private Hire licence fees, in relation to vehicles and operators, will be undertaken as per the requirements in the Local Government (Miscellaneous Provisions) Act 1976.
- 25 All current licence and other authorisation holders will be written to, as part of a public consultation, explaining any amendments to the fees and charges that may be agreed by the Regulatory Committee.
- 26 The Hackney Carriage and Private Hire licence fees have previously gone through extensive consultation, the detail of which this Committee has previously considered.

## **Options**

27 The options available to the Committee in determining Licensing fees and charges for 2019/20.

- 1) Agree the proposal to amend the fees and charges in proportion to the established reasonable costs and current licensing surplus.
- 2) To amend, modify or reject the report and its proposals.

### **Finance Implications**

28 In recognising increased service demand and expected case law, the Licensing Service has produced a fees and charges calculator and predicted a breakeven position in 2019/20, and therefore fees will be amended to reflect actual reasonable costs. These will not just be increased by the Council's statutory 5%. (Steve Strange, Finance Manager, 01454 863115)

### **Legal Implications**

29 If fee levels are not set in accordance with the statutory requirements then the Council is at risk of legal challenge and potentially the repayment of fees and charges income. (Christopher Johnson, Solicitor, 01454 863042)

### **Human Resources Implications**

30 This report seeks to create two new Licensing Enforcement Officer posts within the licensing service on a 1 year limited term basis. There is already an existing role profile and grade for this post. Normal council recruitment processes would be used to fill the posts. There are no other HR implications arising from this report. (Gaynor Fisher, Human Resources Business Partner, 01454 863093)

### **Environmental Implications**

31. There are no significant environmental implications arising from this report.

Lucy Rees, Senior Environmental Policy & Climate Change Officer,  
T: 01454 862224

### **Social Implications**

32 The wider social implications of this proposal are limited to those businesses affected and their direct customers. As such it is considered that the implications of this report are limited. (Mark Pullin, Strong, Safer Communities Manager, 01454 868480)

### **Economic Implications**

33 It is important to ensure in considering appropriate service fees and charges that they give full value to the fee payers in relation to the cost of providing the service. This report illustrates that all reasonable costs have been listed and are proportionate to the licensing functions they relate to. The recommendation to amend the fees and charges is measured and reasonable, The recommendation is

supported by economic development. (Antony Merritt, Strategic Economic Development Manager, 01454 863645)

### **Privacy Impact Assessment**

- 34 No issues have been identified regarding the proposals being made. All current service users information is held securely by the Licensing Service in line with data control protocol. (Mark Pullin, Strong, Safer Communities Manager, 01454 868480)

### **Risks, Mitigations & Opportunities**

- 35 The main risks arising from this report are that fees and charges should be set in accordance with statutory provisions and on a cost recovery basis. Failure to do this could give rise to legal challenge and the repayment of fees.
- 36 The risk of not amending fees to reflect service demand and relying on efficiencies yet to be quantified does pose a risk to income target, but the Licensing Service believes this to be a managed and an achievable risk. (Mark Pullin, Strong, Safer Communities Manager, 01454 868480)

### **Other Implications**

- 37 No other implications have been identified. (Mark Pullin, Strong, Safer Communities Manager, 01454 868480)

### **Conclusions**

- 38 It is policy to review Licensing fees and charges on an annual basis and this Licensing Authority will meet that requirement through public consultation.
- 39 That the Regulatory Committee have set fees and charges in accordance with the statutory provisions and that fee levels are appropriately set.
- 40 That the fees calculator model developed to take all current reasonable costs into account has produced proportionate fees and charges for 2019/20.

### **RECOMMENDATION**

- a) That the Regulatory Committee notes the content of this report relating to the costs of administering licences and other authorisations.
- b) That the Regulatory Committee agrees to the proposed amended fees and charges for the 2019/20 financial year where applicable, and no change to Hackney Carriage and Private Hire fees and charges.
- c) That in addition to the statutory consultation process that this decision is notified to all current licence and other authorisation holders for their comments.
- d) That any representations received during the consultation process are brought back to Regulatory Committee for consideration.

### **Author**

Nigel Riglar, Director of Environment and Community Services, 01454 865810

### **Departmental Contacts**

Mark Pullin, Strong, Safer Communities Manager, 01454 868480

Kevin Barley, Licensing Team Leader, 01454 863576

### **Appendices**

- Appendix 1 - draft charging policy for fees and charges
- Appendix 2 – current Licensing Service fees and charges
- Appendix 3 – the budgeted full cost of the Licensing Service and proposed amended fees and charges for the 2018/19 financial year
- Appendix 4 – Proposed fees for 2019-20