

Name of Committee:	Licensing Committee		
Committee Date:	16 January 2024		
Report Title:	Review of Street Trading Consent Fees		
Responsible Officer:	Alex Robinson – Executive Head of Place		
Cabinet Lead:	Councillor Elizabeth Lloyd		
Status:	Non-Exempt		
Urgent Decision:	No	Key Decision:	No
Appendices:	Appendix A: Proposed Street Trading Consent Fees Appendix B: Pricing Model Appendix C: Fee Structure for 2023-24 Appendix D: Draft notice of proposed fees Appendix E: Projected income 2024-25		
Background Papers:			
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Report Number:	HBC/065/2024		

Corporate Priorities:

Pride in Place: Regular review of the street trading consent fees ensures an efficient licensing service and provision of various street traders in the Borough.

Growth (Internal): Recovering costs enables the Council to deliver consistently excellent customer service, improve and streamline its processes and focus on projects that will benefit its customers.

A robust budget setting process, including setting fees and charges, is required to deliver the Council's Corporate Priorities.

Executive Summary:

This report outlines the proposed fees for street trading consent for the financial year 2024-25.

Recommendations:

Members are requested to:

- a) Approve the proposed fees as outlined in Appendix A for public consultation.
- b) Authorise the placing of the necessary statutory advertisement.

- c) If no representations are received in response to the public consultation, recommend the new fees for adoption by Full Council and implementation for the financial year commencing 1 April 2024.

1.0 Introduction

- 1.1 This report outlines the proposed fees for street trading consent for the financial year 2024-25.
- 1.2 The proposed fees are based on a pricing model, shown at Appendix B, which takes into consideration the true cost of processing and issuing consent for street traders. The model considers staffing costs, corporate overheads, cost of materials and printing, although this is not an exhaustive list.

2.0 Background

- 2.1 The fees for street trading consent were last reviewed in February 2023, with a blanket 8% increase. This was agreed by Full Council on 22 February 2023, with fees coming into effect on 1 April 2023.
- 2.2 During the last fee review, the necessary statutory advertisement was not placed in a local newspaper as per section 9, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.
- 2.3 The Licensing Team has been undertaking a comprehensive review of all its services since January 2023. It was found that insufficient documentation to support the Council's adoption of street trading provisions under Part III of the Local Government (Miscellaneous Provisions) Act 1982 had been retained. The Council adopted the relevant legislation, and designated consent streets, at a meeting of Full Council on 22 November 2023. The adoption takes effect on 1 January 2024.
- 2.4 The Council may only recover certain costs incurred in the carrying out of licensing functions as detailed in sections 9, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The proposed fees, shown in Appendix A, seek to fully recover all relevant costs to the Council.

- 2.5 No evidential basis for the fee structure agreed in 2023-24 and prior to that (see Appendix C) can be found. Accordingly, the Licensing Team have considered not only the fees and charges levied but the fee structure itself. The pricing model shown at Appendix B shows an alternative structure for fees. The proposed structure is evidence based and simpler for customers to understand.
- 2.6 The methodology used to calculate the proposed fees can be found at Appendix B. This transparent and robust process demonstrates that the street trading consent process is cost neutral.

3.0 Options

- 3.1 As the Council has adopted the relevant legislation and demonstrated that it intends to regulate street trading in the Borough, it must publish details of relevant fees and charges. The proposed fees have been calculated in line with the requirements of the relevant legislation. Public consultation for the proposed fees, via publication of a newspaper notice, is legally required.
- 3.2 There are two options available:
1. Approve the fees and charges as set out in Appendix A for consultation and if no representations are received, recommend adoption; or
 2. Approve a modified set of fees for consultation and if no representations are received, recommend adoption;
- 3.3 Officers consider that the fees and charges set out in Option 1 are correct and justifiable and we recommend them, as these charges recover the costs the Council incurs and can legally recover for administering and issuing licences.
- 3.4 Freezing the fees and charges and retaining the status quo, is not considered a viable option as the Council is not able to demonstrate a solid evidential base to support the level of fees and charges.

4.0 Relationship to the Corporate Strategy

- 4.1 Pride in Place: Reviewing the street trading consent fees regularly allows the service to run efficiently and cost-effectively, ensuring that the Council supports and maintains the a varied street trading offering in the Borough for the benefit of its residents and visitors.
- 4.2 Growth (Internal): Ensuring that the Licensing service is cost neutral enables the Council to deliver consistently excellent customer service, improve and streamline its processes and focus on projects that will benefit its customers.
- 4.3 A robust budget setting process, including setting fees and charges, is required to deliver the Council's Corporate Priorities.

5.0 Conclusion

- 5.1 This report comprises a comprehensive review into the cost of administrating street trading consent, and using the pricing model shown at Appendix B seeks to fully recover these costs.

6.0 Implications and Comments

- 6.1 S151 Comments
 - a) Members should take comfort that the proposed charging scheme has been carefully calculated to ensure the Council complies with all relevant legislation and meets the Council's requirements. Being able to demonstrate and justify the fee rate is the key priority to consider in approving these recommendations. The net financial impact is likely to see a reduced annual income of ~£8k, based on current assumptions of application volumes, equivalent to a reduction by ~55%.
- Steven Pink, S151 Officer
- 6.2 Financial Implications
 - a) The Council may recover certain costs incurred in carrying out the licensing functions, as specified in section 9, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

- b) The setting of fees for street trading consent is not a means for generating income for the Council, and case law states that the income from such fees should be 'ring fenced' to the relevant licensing function. Furthermore, case law also indicates that enforcement costs may only be recovered where they relate to ensuring the compliance of street traders with consent, rather than those without.
- c) The pricing model shown at Appendix B shows a significant decrease in fees compared to 2023-24. The pricing model has been used to accurately calculate the cost of running the service. When the Licensing Team inherited the street trading function from Economic Development Team in 2017, no justification for the fees charged was evidenced or discussed. The pricing model intends to demonstrate the true cost of running the service, ensuring transparency for customers.
- d) Appendix E shows the effect on projected income for 2024-25, should the proposed fees be introduced. Whilst adopting lower fees would result in lower income than if the current fees remained, the Council is in a stronger, legal position adopting fees that can be evidenced as cost neutral.
- e) There is a requirement for a statutory notice to be published in a local newspaper as part of the consultation process for any proposed street trading fees. The cost of this notice will be approximately £120 + VAT, which will be covered by the Licensing Team's existing budget.

6.3 Monitoring Officer Comments

- a) The Council has carried out a robust and transparent exercise to ensure that the proposed fees and charges allow the Council to recover all the costs the Council incurs and can legally recover. The setting of licensing fees is a non-executive function and therefore any fees proposed must be approved by Full Council. The proposed fees and charges will form part of the Council's robust budget setting process, which is required to deliver the

Council's Corporate Priorities. Dependant upon the outcome of the consultation process, the fees and charges shall be recommended for approval at the Budget Council in February.

- Jo McIntosh, Monitoring Officer

6.4 Legal Implications

- a) Section 9, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 outlines the process for setting fees and the costs that the Council may recover.
- b) The Council may determine different fees for the grant or renewal of consents and may also determine fees differing according to the duration of the consent, the street on which it authorises trading, and the articles that are being traded. Recovery of fees relating to the collection of refuse, the cleansing of streets and other services rendered by the Council to the consent holder is also permitted.
- c) The Council may also require applicants to pay a deposit, repaid by the Council in the event that the application is refused, and it may remit or refund the whole or part of any fee paid if a consent is surrendered or revoked.
- d) Where it is proposed to determine or vary charges, the Council must give notice of the proposed charges to any existing consent holders and publish a notice of the proposed charges in a local newspaper circulating in the area. A reasonable period must be specified for representations to be made.
- e) Where representations are made and not withdrawn, it is the duty of the Council to consider such representations prior to determining the charges.

6.5 Equality and Diversity

- a) There are no equality and diversity implications arising as a result of this report. Application fees are set through a transparent, cost-based process with no favour towards, or

discrimination against, any protected characteristic(s) of an applicant.

6.6 Human Resources

- a) There are no human resources implications arising as a result of this report. The consultation process for the proposed fees will be managed within the Licensing Team's current resources and no additional recruitment is required.

6.7 Information Governance

- a) There are no information governance implications arising as a result of this report. The Council's fees and charges are published on the website, once agreed, as a matter of public record.

6.8 Climate and Environment

- a) There are no climate or environment implications arising as a result of this report. Neither climate nor environment matters are considered as part of the fee setting process as the fees must relate only to the costs that they seek to recover.

7.0 Risks

- 7.1 The Council's fee setting process could be challenged by way of a Judicial Review. However, as the process is both transparent and consistent with the requirements of the relevant legislation, a successful challenge is unlikely.
- 7.2 Failure to review the fees regularly may result in the Council not accurately recovering the costs associated with the relevant licensing functions.

8.0 Consultation

- 8.1 The proposed fees for street trading consent will be subject to a 14 day public consultation period. This will include publication of a notice

of fees, shown at Appendix D, in a local newspaper circulating in the area on at least one occasion.

- 8.2 Where representations are received during the consultation period, the Licensing Committee will consider these representations and make any necessary amendments to the proposed fees before recommending the proposed fees for adoption by Full Council.
- 8.3 Where no representations are received during the consultation period, the Licensing Committee will recommend the proposed fees for adoption by Full Council.

9.0 Communications

- 9.1 In addition to the requirements to notify existing consent holders and place a statutory notice in a local newspaper as part of the public consultation, a copy of the statutory notice will also be published on the Council's Licensing webpages with assistance from the Public Relations Team.

Agreed and signed off by:		Date:
Cabinet Lead:	Cllr Elizabeth Lloyd	08/01/2024
Executive Head:	Alex Robinson	28/12/2023
Monitoring Officer:	Jo McIntosh	29/12/2023
Section151 Officer:	Steven Pink	27/12/2023