

**Agenda Item No:** 4  
**Report To:** **REGULATORY COMMITTEE**



**Date of Meeting:** 20 January 2022

**Report Title:** **PROPOSED FEE LEVELS FOR 2022/23 LICENSING APPLICATIONS**

**Report Author & Job Title:** Trevor Ford  
Environmental Protection and Licensing Team Leader

**Portfolio Holder** Cllr Peter Feacey  
**Portfolio Holder for:** Community Safety and Wellbeing

<b>Summary:</b>	<b>The report proposes fees for licences for 2022/23 (excluding those set by the Licensing Committee)</b>
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**Key Decision:** NO

**Significantly Affected Wards:** Not applicable

**Recommendations:** **That the Regulatory Committee :-**

- I. Recommends the sex establishment fees as given in Appendix A to full council.**
- II. Recommends the hackney carriage, private hire and operator licence fees in Appendix B to full council for public consultation.**
- III. Recommends the scrap metal site and collectors fees as given in Appendix C to full council.**
- IV. Notes the annual licensing summary in Appendix D.**

**Policy Overview:** The process of setting the fees for licences is essential to ensure that operational costs are recovered and that council budgetary objectives are met.

**Financial Implications:** The process of setting the fees is necessary to ensure that fees are set at a level that will enable the authority to recover relevant costs associated with the service provision.

**Legal Implications** The appropriate setting of fees is necessary to ensure that the Council do not act outside of current legislation and request costs which we are not entitled to recover from licensees. Failure to set fees appropriately opens the Council up to legal challenge.

**Equalities Impact Assessment** The setting of fees in relation to these functions is not considered to cause any discrimination. The fees are set in

accordance with government guidance and each application is processed on its individual merits.

**Other Material Implications:**

Members should note generally that some licences issued by the Council may be considered possessions and therefore Article 1 to Protocol 1 of the Human Rights Act 1998, the peaceful enjoyment of possessions, is relevant.

**Exempt from Publication:**

NO

**Background Papers:**

None

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## Report Title:

### **PROPOSED FEE LEVELS FOR 2022/23 LICENSING APPLICATIONS**

1. The report recommends the proposed fees for licences for the financial year 2022/23.
2. The Committee are asked whether to approve the following fees for recommendation to the full council.
  - The sex establishment fees as given in Appendix A.
  - The hackney carriage, private hire and operator licence fees in Appendix B for public consultation.
  - The scrap metal site and collectors fees as given in Appendix C.

The Committee is also asked to note the annual licensing summary at Appendix D.

#### **Introduction and Background**

3. The fees have been determined by examining how long is spent processing an application and who in the authority is likely to carry out the various processes.
4. The type of tasks involved in a premises application for example:
  - Assistance to the applicant (pre-application stage, including telephone advice, sending forms, etc.) and the checking of an application for completeness when received.
  - Checking all required documents have been submitted, processing the application fee, banking processes and reconciling payments.
  - Entering the information into our computer system including scanning if appropriate.
  - Contacting the applicant to clarify the application or chase missing information if required.
  - Assess representations for relevance and undertake informal mediation.
  - Carry out compliance visits and checking the operating licence once issued.
  - Determining the licence, arranging a hearing, holding a hearing and notification of the decision if required.
  - Prepare and issue the licence and update the records/register.
  - Appeal preparation and holding an appeal hearing, if necessary.

## 5. Sex Establishment Fees

The licensing of sex establishments is governed by the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3. Under these adoptive provisions local authorities can require any sex shops or sex cinemas in their area to obtain a licence. Ashford Borough Council adopted Schedule 3 effective from 1 May 1983.

Members will be aware that the council carried out a consultation about whether to adopt the relevant provisions of the Local Government (Miscellaneous Provisions) Act 1982, for the licensing of Sexual Entertainment Venues, such as lap dancing clubs. Council adopted the relevant provisions on 17 February 2011.

It is proposed that the fees are retained at the existing level.

## 6. Hackney Carriage and Private Hire Fees

Under Local Government (Miscellaneous Provisions) Act 1982, the provisions controlling the levying of fees are:

- Local Government (Miscellaneous Provisions) Act 1982, Schedule 53(2), in respect of drivers licences for both hackney carriages or private hire vehicles; and
- Local Government (Miscellaneous Provisions) Act 1982 Schedule 70 for hackney carriage proprietors' licences, private hire vehicle licences and private hire operators' licences.

It is proposed to adjust the hackney and private hire fees generally in line with inflation (RPI).

The proposed licence fees are set out at Appendix B.

In addition it appears to be prudent to outline to the Committee the outcomes of the 'green' taxi incentive scheme which was planned to end in March 2022 in line with funding arrangements;

The scheme which ran from 2019 for three years, provided vehicle operators with the incentive of 'free' vehicle licensing fees for three years (worth nearly £1,000) for any new ultra low emission vehicle bought onto the taxi fleet. This was an incentive on top of central government grants, and funding such as Kent County Council's LoCASE funding.

Unfortunately despite the efforts of the Licensing team and Kent County Council LoCASE grants, during the almost three years of the scheme only two ultra-low emission vehicles were bought onto the fleet. There are a number of factors considered liable to account for this figure, however Covid19 has of course played a major role in businesses over the last two years.

Accordingly it is proposed, subject to funding, to continue the scheme on the same basis.

## 7. Scrap Metal Dealers Fees

The Scrap Metal Dealers Act 2013 provides regulation of the sector, creating a more robust, local authority run licensing regime that supports legitimate dealers whilst providing the powers to effectively tackle unscrupulous operators.

Schedule 1(6) of the 2013 Act provides that an application must be accompanied by a fee set by the local authority. In setting a fee, the authority must have regard to any guidance issued from time to time by the Secretary of State with the approval of the Treasury.

The power to set fees has been passed to individual local authorities, so that any fees levied in each local area are set by reference to the actual costs to each authority. A licence fee can only be used to pay for the cost associated with the licensing process. In effect, each local authority must ensure that the income from fees charged for each service, application, variation and renewal do not exceed the costs of providing the service.

It is proposed that an increase broadly in line with inflation (RPI) be made to the fees this year. These are set out at Appendix C.

### **Proposal/Current Position**

8. The fees as recommended by the Regulatory Committee will be presented to Council on 4 March 2022.

### **Implications and Risk Assessment**

9. As previously stated the recommendations do not represent key decisions. The consideration assessment indicates low impact in terms of human rights, legal and staffing implications.
10. The process of setting the proposed licence fees is essential to ensure that operational costs are recovered. If no decision is taken, the council budgetary objectives are unlikely to be met.
11. If trade bodies or applicants believe the authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake judicial review proceedings. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.
12. Case law relating to fee levels in various licensing areas has agreed a general principle that licensing fees should not be used as a method of creating revenue. For example:
  - *R v Manchester City Council ex parte King (The Times, 3 April 1991)* – established that local authorities may only charge reasonable fees for licences and not use them to raise revenue;

and

- *R v Westminster City Council ex parte Hutton (1985) LGR* – established the need to only take into account relevant material when setting the fees
13. Licence fees must be set at a level proportionate to the effective cost of the licensing procedure and must not be used as an economic deterrent or to raise funds. Councils must set fees that cover the costs directly associated with the licensing function. It is important therefore that council's fees are defensible and based on actual costs incurred.

### **Equalities Impact Assessment**

14. The setting of fees in relation to these functions is not considered to cause any discrimination. The fees are set in accordance with Government guidance and each application is processed on its individual merits.

### **Consultation Planned or Undertaken**

15. The fees that require formal consultation will be subject to public notices prior to implementation on the 1 April 2022.

### **Other Options Considered**

16. The need to ensure fees cover local authority costs means that whilst various changes have been considered, the process is not open to other options

### **Reasons for Supporting Option Recommended**

17. Whilst the effects of the pandemic continues to impact on a number of industries, the costs of administering the licensing regime in relation these areas continue to be affected by inflationary cost increases such as the cost of living increases on salaries and back office costs.
18. It is however worth noting, that whilst licensing fees are set/adjusted annually, the council are able to consider the actual income and expenditure across a number of years, and can adjust fees in future years to 'correct' for any unexpected income or losses. As such should the fees proposed result in any unexpected 'excess' income then it will be possible to correct for this as part of future fee setting.
19. Accordingly, the recommended option is supported to ensure effective recovery of the costs incurred in processing and regulating the aforementioned licensing regimes.

### **Next Steps in Process**

20. The hackney carriage and private hire licence fees are subject to a public consultation in accordance with Section 70 of the Local Government

(Miscellaneous Provisions) Act 1976. A public notice will be placed in the local press. If no objections are received in response to the public notice the fee structure would be adopted from 1 April 2022. If relevant objections are received in response to the public notice, these would be reported back to the Regulatory Committee.

21. All other fees, not subject to public consultation, will be recommended to full council, and once agreed come into effect on the 1 April 2022

## **Conclusion**

22. The impact of these changes on income to the council must be carefully monitored. Annual reviews of fees must be continued to ensure that relevant costs are recovered and raising excessive revenue is avoided. The fees have been increased broadly in line with inflation (RPI), except where the specific circumstances dictate otherwise.
23. A licensing summary for the period 1 January 2021 to 31 December 2021 has been prepared and is set out at Appendix D.

## **Portfolio Holder's Views**

24. "Whilst we recognise that the last year continued to be a difficult year for a large number of businesses, it is essential for the council to continue to ensure that the licensing fees are set at the correct level as to provide the resources to continue to protect public safety"

Councillor Peter Feacey

## **Contact and Email**

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**APPENDIX A: PROPOSED SEX ESTABLISHMENT LICENCE FEES 2022/23**

**APPENDIX B: PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING FEES 2022/23**

**APPENDIX C: PROPOSED SCRAP METAL, SITE & COLLECTORS LICENSING FEES 2022/23**

**APPENDIX D: LICENSING SUMMARY 2021**

**APPENDIX A: RECOMMENDED SEX ESTABLISHMENT LICENCE FEES FOR  
2022/23**

	<b>CURRENT FEES 2021/22</b>	<b>PROPOSED FEES 2022/23</b>
Grant	£3499	£3499
Transfer	£334	£334
Renewal	£334	£334

**APPENDIX B: PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING FEES 2022/23**

	<b>CURRENT FEES 2021/22</b>	<b>PROPOSED FEES 2022/23</b>
Private Hire & Hackney Carriage Drivers Licence (for 1 year)	<b>£72.00</b>	<b>£74.00</b>
Private Hire & Hackney Carriage Drivers Licence (for 3 years)	<b>£149.00</b>	<b>£153.00</b>
Additional driver's licence (adding a licence)	<b>£31.00</b>	<b>£32.00</b>
Hackney Carriage Knowledge Test & Re-test	<b>£59.00</b>	<b>£61.00</b>
Replacement badge / Licence	<b>£12.50</b>	<b>£13.00</b>
Vehicle Licence - New or Renewal (including vehicle plate) for 1 year	<b>£335 - New £300 - Renewal</b>	<b>£346 - New £305 - Renewal</b>
Vehicle Plate Internal / External	<b>£21.00</b>	<b>£22.00</b>
Transfer of Vehicle Licence (with or without vehicle plate)	<b>£35.00</b>	<b>£38.00</b>
<i>Vehicle Inspection - Test Fee (set by contract)</i>	<b>£32.00</b>	<b>£32.00</b>
<i>Vehicle Inspection - Missed Appointment (set by contract)</i>	<b>No Charge</b>	<b>No Charge</b>
Private Hire Operators Licence - New or Renewal (for 5 years)	<b>1-3 vehicles : £143 4-10 vehicles : £474 11-20 vehicles : £947</b>	<b>1-3 vehicles : £147 4-10 vehicles : £483 11-20 vehicles : £960</b>
To increase number of vehicles licensed during duration of Operators Licence	<b>1-3 : £141.00 4-10 : £328.00 11-20 : £475.00</b>	<b>1-3 : £145.00 4-10 : £334.00 11-20 : £483.00</b>
Fee for Returned (Bounced) Cheques	<b>£17.50</b>	<b>£18.00</b>

**APPENDIX C: RECOMMENDED SCRAP METAL DEALERS FEES FOR 2022/23**

	<b>CURRENT FEES 2021/22</b>	<b>PROPOSED FEES 2022/23</b>
Grant Site Licence	£344	£354
Grant Collectors Licence	£231	£237
Renewal Site Licence	£231	£237
Renewal Collectors Licence	£115	£118
Variation	£87	£89
Replacement Licence	£12.50	£12.50

## APPENDIX D:

### LICENSING ANNUAL SUMMARY 2021 (Excluding Licensing Act and Gambling Act applications)

#### Licences/Permissions issued

<b>Licence/Permission Type</b>	<b>Number Issued</b>
<b>Taxi</b>	
Vehicles – new, renewal, transfers	276
Drivers / Operators – new, renewals	137
<b>Scrap Metal Dealers Act 2013</b>	
Site licences	3
Collectors licences	2
<b>Other</b>	
Sexual Entertainment Venues	0
Publicity Displays / Town Centre	39
Skin Piercing (premises and practitioners)	22
Animal Licensing	13
House to House	14
Street Collections	115
Street Trading	49
<b>TOTAL LICENCES/PERMISSIONS ISSUED</b>	<b>570</b>

*Issued between 1 January 2021 and 31 December 2021*