

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



Date of Meeting: 16 January 2024

Report Title: **PROPOSED FEE LEVELS FOR LICENSING APPLICATIONS - 2024/25**

Report Author: Trevor Ford
Job Title: Environmental Protection and Licensing Team Leader
Portfolio Holder: Cllr. Liz Wright
Portfolio Holder for: Communities and Health

Summary: The report proposes fees for licences for 2024/25 (excluding those set by the Licensing Committee)

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.**
- 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: *Text agreed by Principal Litigator on 28th December 2023* 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.

**Data Protection
Impact
Assessment:**

N/A

**Risk Assessment
(Risk Appetite
Statement):**

The recommendation does not represent a key decision.
There is a low impact in terms of human rights, the environment, legal and staffing implications.

**Sustainability
Implications:**

N/A

**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 2024/25 LICENSING APPLICATIONS

1. The report recommends the proposed fees for licences for the forthcoming financial year.
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.
 - 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.

As part of informal fee benchmarking across the Kent licensing authorities, the following fee information was obtained from the relevant authorities webpages, and sorted based on the new application fee.

SEV licence		
	New	Renewal (where different to new fee)
Maidstone	4888	
Dartford	4865	2675
Medway	4300	2700-4300 * Based on premises type
Swale	4200	650
Sevenoaks	3641	
Ashford	3499	387
Dover	3250	2225
Gravesham	3058	1612
Tunbridge Wells	2255	
Folkestone and Hythe	2119	
Thanet	1191	
Canterbury	Fee not located	Fee not located
Tonbridge and Malling	Fee not located	Fee not located

It is proposed that the fees for the grant of a licence are retained at the existing level, and that renewal or transfer applications rise in line with inflation.

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.

As part of informal fee benchmarking across the Kent licensing authorities, the following fee information was obtained from the relevant licensing authorities webpages, and sorted based on the new application fee. Some fees were not included for comparison due to insufficient published fees to conduct a meaningful comparison.

Drivers licence PRIVATE HIRE (3 years)		
	New	Renewal (where different to new fee)
Canterbury	440.17	248.47
Folkestone and Hythe	340	
Dover	300	285
Maidstone	271	266
Sevenoaks	264	183
Tonbridge and Malling	231	
Thanet	209	149
Gravesham	191	
Medway	191	
Ashford	190	
Dartford	153	115
Swale	150	
T.Wells	N/A - dual licences only	

Drivers licence HACKNEY/DUAL (3 years)		
	New	Renewal (where different to new fee)
Canterbury	534.93	390.61
Maidstone	353	344
Folkestone and Hythe	340	
Dover	300	285
Sevenoaks	264	183
Tonbridge and Malling	259	
T.Wells	246	239
Dartford	210	165
Thanet	209	149
Gravesham	191	
Medway	191	
Ashford	190	
Swale	150	

DBS Fee	
Dartford	65
Folkestone and Hythe	47
Swale	44
Canterbury	44
Thanet	40
Dover	40
Sevenoaks	40
Maidstone	38 (£13 per annum via Update Service)
Ashford	38 (£13 per annum via Update Service)
T.Wells	38
Tonbridge and Malling	38
Gravesham	Not listed
Medway	Not listed

Safeguarding training cost	
Thanet	£130 as part of new driver course
T.Wells	73
Maidstone	67
Sevenoaks	66
Dartford	30
Tonbridge and Malling	25
Folkestone and Hythe	25 approx.
Ashford	12
Dover	12
Swale	Not listed
Canterbury	Not listed
Gravesham	Not listed
Medway	Not listed

Knowledge test	
Thanet	130
Dartford	120
Canterbury	84.24
Gravesham	76
Medway	76
Ashford	71
Folkestone and Hythe	66
Tonbridge and Malling	60
T.Wells	55
Sevenoaks	51.50
Maidstone	36
Dover	35
Swale	25

Operator licence (5 year)		
*sorted based on operation of 1 vehicles.		
	New	Renewal (where different to new fee)
Dartford	945	
Sevenoaks	747	586
Thanet	740	680
Medway	626	
Gravesham	626	
T.Wells	623	312
Maidstone	552	462
Swale	430	
Dover	364	
Ashford	200	
Canterbury	154.92	
Folkestone and Hythe	130	
Tonbridge and Malling	88	

Operator licence (5 year)		
* sorted based on operation of 5 vehicles.		
	New	Renewal (where different to new fee)
Gravesham	1247	
Medway	1247	
Folkestone and Hythe	1050	
Dartford	945	
Canterbury	774.60	
Sevenoaks	747	586
Thanet	740	680
Ashford	590	
T.Wells	623	312
Maidstone	552	462
Tonbridge and Malling	440	
Swale	430	
Dover	364	

Operator licence (5 year)		
* sorted based on operation of 11 vehicles		
	New	Renewal (where different to new fee)
Canterbury	1704.12	
Gravesham	1247	
Medway	1247	
Ashford	1114	
Folkestone and Hythe	1050	
Tonbridge and Malling	965	
Dartford	945	
Dover	898	
Sevenoaks	747	586
Thanet	740	680
T.Wells	623	312
Maidstone	552	462
Swale	430	

Vehicle licence PRIVATE HIRE		
	New	Renewal (where different to new fee)
Thanet	360	235
Ashford	346	305
Swale	340	290
Canterbury	324.71	275.39
Maidstone	302	
Folkestone and Hythe	300	
Sevenoaks	297	
T.Wells	278	257
Gravesham	273 (inc. tests fees)	
Tonbridge and Malling	270	260
Dover	265 (195 EV, 198 Wheelchair)	
Dartford	247	220
Medway	165	

Vehicle licence HACKNEY		
	New	Renewal (where different to new fee)
Canterbury	435.92	283.70
Thanet	350	285
Ashford	346	305
Swale	340	290
Dover	330	
Maidstone	327	
Sevenoaks	325	
T.Wells	316	294
Folkestone and Hythe	300	
Dartford	285	242

Tonbridge and Malling	280	260
Gravesham	273 (including tests)	
Medway	165	

Transfer of vehicle	
Canterbury	147.40
Thanet	120
Folkestone and Hythe	100
T.Wells	84
Maidstone	79
Dover	60
Ashford	48
Swale	40
Dartford	35
Sevenoaks	27
Gravesham	Not listed
Medway	Not listed
Tonbridge and Malling	Not listed

Replacement licence (badge)	
Dartford	25
Sevenoaks	24
Folkestone and Hythe	23
Gravesham	18
Medway	18
Ashford	15
Maidstone	12
T.Wells	11
Dover	10.50
Swale	10
Canterbury	7.37
Thanet	Not listed
Tonbridge and Malling	Not listed

Replacement licence (plate)	
Dartford	50
T.Wells	28
Ashford	26
Maidstone	26
Gravesham	24
Medway	24
Folkestone and Hythe	23
Sevenoaks	18
Dover	17
Canterbury	14.73
Swale	Not listed
Thanet	Not listed
Tonbridge and Malling	Not listed

It is proposed to adjust the hackney and private hire fees generally in line with inflation, except for the following fees;

- i. Vehicle licence fees – These fees are proposed to remain at the same fee level. This is based on a review of the current fee levels against enforcement associated with vehicle licensing, and also noting the benchmarking with other Kent authorities.
- ii. Administrative fees – The fees for these tasks (replacement badges, licences, and, vehicle plates) are proposed to remain at the same fee level.

The proposed licence fees are set out at Appendix B.

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.

As part of informal fee benchmarking across the Kent licensing authorities, the following fee information was obtained from the relevant authorities webpages, and sorted based on the new application fee.

Scrap Metal Collector		
	New	Renewal (where different to new fee)
Canterbury	£408.08	
Gravesham	£364	
Medway	£364	
Folkestone and Hythe	£339	
Tunbridge Wells	£331	
Tonbridge and Malling	£330	
Thanet	£330	£330
Maidstone	£320	
Sevenoaks	£309	
Dover	£280	£272
Ashford	£275	£137
Swale	£250	
Dartford	Fee not located	Fee not located

Scrap Metal Site		
	New	Renewal (where different to new fee)
Gravesham	£621	
Medway	£621	
Canterbury	£612.70	
Folkestone and Hythe	£580	£544
Thanet	£570	£510
Tunbridge Wells	£543	£459
Swale	£535	£535
Maidstone	£525	£445
Sevenoaks	£507	£428
Dover	£490	£475
Tonbridge and Malling	£440	£396
Ashford	£411	£275
Dartford	Fee not located	Fee not located

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

Proposal/Current Position

- The fees as recommended by the Regulatory Committee will be presented to Council.

Implications and Risk Assessment

- 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.
- 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.
- 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.
- 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. Any fees that require formal consultation will be subject to public notices prior to implementation on 1 April 2024.

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 current state of the economy impacts 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 2024. 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 2024

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, except where the specific circumstances dictate otherwise.
23. A licensing summary for the period 1 January 2023 to 31 December 2023 has been prepared and is set out at Appendix D.

Portfolio Holder's Views

24. "I fully support all the proposals set out, which are fair and necessary."

Councillor Liz Wright

Contact and Email

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APPENDIX A: PROPOSED SEX ESTABLISHMENT LICENCE FEES

APPENDIX B: PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING FEES

APPENDIX C: PROPOSED SCRAP METAL, SITE & COLLECTORS LICENSING FEES

APPENDIX D: LICENSING SUMMARY 2023

**APPENDIX A: RECOMMENDED SEX ESTABLISHMENT LICENCE FEES FOR
2024/25**

	CURRENT FEES 2023/24	PROPOSED FEES 2024/25
Grant	£3499	£3499
Transfer	£387	£406
Renewal	£387	£406

**APPENDIX B: PROPOSED HACKNEY CARRIAGE AND PRIVATE HIRE
LICENSING FEES 2024/25**

	CURRENT FEES 2023/24	PROPOSED FEES 2024/25
Private Hire & Hackney Carriage Drivers Licence (for 1 year)	£92.00	£97.00
Private Hire & Hackney Carriage Drivers Licence (for 3 years)	£190.00	£200.00
Additional driver's licence (adding a licence)	£37.00	£39.00
Hackney Carriage Knowledge Test & Re-test	£71.00	£74.00
Replacement badge / Licence	£15.00	£15.00
Vehicle Licence - New or Renewal (including vehicle plate) for 1 year	£346 - New £305 - Renewal	£346 - New £305 - Renewal
Vehicle Plate Internal / External	£26.00	£26.00
Transfer of Vehicle Licence (with or without vehicle plate)	£46.00	£48.00
<i>Vehicle Inspection - Test Fee (set by contract)</i>	<i>£32.00</i>	<i>£32.00</i>
<i>Vehicle Inspection - Missed Appointment (set by contract)</i>	<i>No Charge</i>	<i>No Charge</i>
Private Hire Operators Licence - New or Renewal (for 5 years)	1-3 vehicles: £200 4-10 vehicles: £590 11-20 vehicles: £1114	1-3 vehicles: £210 4-10 vehicles: £620 11-20 vehicles: £1170
To increase number of vehicles licensed during duration of Operators Licence	1-3 : £200.00 4-10 : £415.00 11-20 : £560.00	1-3 : N/A 4-10 : £436.00 11-20 : £588.00
Fee for Returned (Bounced) Cheques	£22.00	£22.00

APPENDIX C: RECOMMENDED SCRAP METAL DEALERS FEES FOR 2024/25

	CURRENT FEES 2023/24	PROPOSED FEES 2024/25
Grant Site Licence	£411	£432
Grant Collectors Licence	£275	£289
Renewal Site Licence	£275	£289
Renewal Collectors Licence	£137	£144
Variation	£103	£108
Replacement Licence	£14.50	£15

APPENDIX D:

LICENSING ANNUAL SUMMARY 2023 (Excluding Licensing Act and Gambling Act applications)

Licences/Permissions issued

Licence/Permission Type	Number Issued
Taxi	
Driver New	98
Driver Renewal	126
Driver Transfer	11
Vehicle New	75
Vehicle Renewal	233
Vehicle Transfer	99
Operator New	24
Scrap Metal Dealers Act 2013	
Scrap Site - New	0
Scrap Site - renewal	2
Scrap Collector - New	2
Scrap Collector - Renewal	3
Other	
Sexual Entertainment Venues	0
Publicity Displays / Town Centre	43
Skin Piercing Premises	22
Skin Piercing Practitioner	35
Pavement Licence	8
Animal - New	5
Animal - Renewal	14
Animal - Variation	7
Animal - Zoo New	1
Animal - Zoo Renewal	1
House to House	12
Street Collections	21
Street Trading New	9
Street Trading renewal	21
Markets	4
Markets - renewal	8
Leafleting	5
TOTAL LICENCES/PERMISSIONS ISSUED	889

Issued between 1 January 2023 and 31 December 2023