

# Allerdale Borough Council

## Licensing Committee – 09 February 2021

### Review of Fees and Charges

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<b>Portfolio holder</b>	Councillor Jim Lister
<b>Report from</b>	Gillian Collinson, Senior Licensing & Compliance Officer
<b>Wards affected</b>	All Wards
<b>Is this a key decision</b>	Yes

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#### **1.0 The reason for the decision**

- 1.1 Proposals for amended fees, changes in delegations and the introduction of new licence provisions are being presented to Executive and Council for their consideration and approval and are attached to this report as Appendix 1 and 2 respectfully. The proposals will enable the Council to recover its reasonable costs in processing and determining applications and ensuring compliance with the appropriate legislation and conditions of the licence.

#### **2.0 Recommendations**

- 2.1 To note and support the recommendations contained at paragraphs 2.1 and 2.2 within the report to Executive (Appendix 1); and
- 2.2 To note and support the recommendations contained at paragraphs 2.1 – 2.6 within the report to Council (Appendix 2).

#### **3.0 Background and Introduction**

- 3.1 It has been a long established principle that fees chargeable for licences must be on a cost recovery basis. This extends across the range of licences from hackney carriage and private hire, scrap metal, sex establishments and some licences under the Gambling Act 2005.
- 3.2 This principle was confirmed by a Court of Appeal judgement in the case detailed in the Council report known as the *Hemming* case.
- 3.3 As a result of the *Hemming* case rulings and licensing legislation, the costs associated with the licensing procedures that the Council may legally recover in fees consists of administrative costs, the costs of investigating the background and

suitability of applicants for licences and the costs of monitoring the compliance of those with licences with their terms. Where applicable, the cost of enforcement against unlicensed operators is also included in the fee. These will include the costs that are directly attributable to licensing procedures and a proportion of indirect costs. The Council must be in a position to demonstrate that the costs included in any fees calculations are reasonable and proportionate to the cost of the licensing procedures.

- 3.4 Although the principle applies across the licensing service as a whole, Members should note that the setting of licensing fees is subject to legislation. In the Council report, the fees are split into Parts A, B and C:

Part A - Statutory fees;

Part B - Maximum cap on fees set by Council; and

Part C - Discretionary fees set by Council (cost recovery).

- 3.5 A comprehensive review of the fees and charges has taken place and two reports prepared for consideration by Executive and Council.

- 3.6 In most cases Council would set fees and charges, but the responsibility for fee setting and delegations for Scrap Metal is an Executive function, which is why two separate reports have been prepared.

- 3.6 In addition to the review of fees and charges, the delegations for the roles involved in the scrap metal hearings require updating together with the introduction of additional licence provisions under the hackney carriage and private hire regime. Namely, as required by legislation an option to grant licences for a longer duration where appropriate together with the new fee.

- 3.7 The Licensing Committee is asked to examine the reports and amend or recommend approval to the proposals.

#### **4.0 Content**

- 4.1 Paragraphs 3.0 and 4.0 in the Council report explain in depth the work undertaken to review the fees and charges and the relevant legislation and case law which underpins it. Members should refer to this for a full explanation of the reasoning behind the recommendations given in each report. It is not an option to do nothing as the Council would be in breach of various parts of legislation, case law and lack of appropriate delegations would render any scrap metal hearings illegal.

#### **5.0 Delivery arrangements**

- 5.1 The outcomes from the Licensing Committee will be included in the Executive and Council reports and thereafter delivered on a daily basis through the application process by officers and other officers and Members involved in hearings.
- 5.2 The calculations will continue to be assessed on an annual basis by officers and the results presented to the relevant Committees.

## **6.0 Implications and Impact**

### **6.1 Contribution to Council Strategy Priorities, Outputs and Outcomes**

Financially secure council – Legislation provides that licensing services must be charged out to applicants on a cost recovery basis. The council must ensure that it is calculated as accurately as possible the cost involved in assessing the suitability of applicants together with compliance of licences granted. By doing this the council ensures that as well as applicants not being overcharged, the residents of Allerdale are not at risk of subsidising the service with funding coming from other essential services to finance the licensing service. It is not about generating more income but ensuring accuracy in accordance with the principles of cost recovery.

High quality services – Reviewing the fees and charges also involves examining the processes associated with the application and compliance process. It means challenging the way services are delivered and striving to improve them in accordance with customer needs and expectations through the development of technology and cutting out waste identified in processes.

Thriving towns and villages - Ensuring the correct fees are charged means the correct level of suitability checks and compliance with terms and conditions of licences can continue. This will give confidence to the residents and visitors of Allerdale that public safety, the prevention of crime and/or disorder, prevention of public nuisance and protection of children from harm and suitability of licence holders are at the forefront of the licensing priorities. This together with supporting businesses to succeed in Allerdale.

### **6.2 Finance/Resource implications**

6.2.1 Paragraph 6.2 in the Council report comprehensively sets out the procedures and considerations undertaken in the review, projected income levels and other legislation relating to annual fees and refunds.

### **6.3 Legal and governance implications**

6.3.1 Paragraph 6.3 in the Council report explains in depth the legislation which applies across varying parts of the licensing service, case law and the methods by which the application fee would be charged.

6.3.2 Changes in governance are necessary within the scrap metal function. Amended delegations to officers and members are required to ensure hearings held and decisions made are within the correct delegation process within the Council's constitution.

### **6.4 Risk analysis**

Not applicable

### **6.5 Increasing satisfaction and service**

6.5.1 Reviewing the fees and charges has involved examining the processes attached to every type of application within each licence function and the indirect costs from other departments. This has naturally led to questioning and challenging procedures, time management and performance to ensure staffing and technology are utilised as efficiently as possible. By continually monitoring this, processes can

be streamlined giving better value for money to customers whilst maintaining robust application and ongoing suitability checks giving the necessary confidence to residents and visitors of Allerdale.

## **6.6 Equality impacts**

An Equality Impact Analysis has not been completed as the outcomes will be applied equally to applicants and existing licence holders across Allerdale.

## **6.7 Health and Safety impacts**

By ensuring the correct revenue is collected to maintain a licensing service which can assess the safety and suitability of applicants and premises across Allerdale will support this.

## **6.8 Health, wellbeing and community safety impacts**

By ensuring the correct revenue is collected to maintain a licensing service which can assess the safety and suitability of applicants and premises across Allerdale will reduce crime and/or disorder and promote safety thereby improving the impact of this.

## **6.9 Environmental/sustainability impacts**

By ensuring the correct revenue is collected to maintain a licensing service which can assess the safety and suitability of premises across Allerdale will reduce the environmental impacts of premises and vehicles in terms of noise and pollution.

## **6.10 Other significant implications**

No other significant implications are anticipated.

## **Appendices attached to this report**

<b>Appendix number</b>	<b>Title of appendix</b>
Appendix 1	Executive report dated 24/02/21
Appendix 2	Council report dated 03/03/21

## **Background documents available**

<b>Name of background document</b>	<b>Where it is available</b>
Fees and Charges calculations	Licensing department

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