

Committee :	Date	Classification
<b>Licensing Committee</b>	<b>21<sup>st</sup> March 2017</b>	<b>Unrestricted</b>

Report of David Tolley – Head of Environmental Health and Trading Standards  Originating Officer - Tom Lewis Team Leader- Licensing and Safety Team	Title  <b>Review of Environmental Health Licence          Fees/Registrations</b>  Wards affected: All
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## **1 SUMMARY**

- 1.1 This report advises Members of a review that has taken place with regards to Environmental Health licence fees that can be set locally. The fees under consideration are those for massage and special treatments, performing animals' registration and variation, dangerous wild animals, pet shops, riding schools, and animal boarding.
- 1.2 As advised by the Finance Officer, all such fees should be increased by 2% in line with the general fee increases agreed by Cabinet.

## **2. RECOMMENDATIONS**

The Licensing Committee is recommended to agree:-

- 2.1 That the fee for Massage and Special Treatment licences, including Intense Pulse Light laser treatment, be increased by 2% thus increasing Massage and Special Treatment Licences from £322 to £328.40 and Intense Pulse Light laser treatment licences from £518 to £528.40.
- 2.2 That where a business operates a selection of beauty treatments and Intense Pulse Light laser treatment, that only the higher fee is payable.
- 2.3 That the fee for Performing Animals registration be increased by 2% from £364 to £371.30.
- 2.4 That the fee for a Variation of a Performing Animals registration be increased by 2% from £272.00 to £277.50.
- 2.5 That the fee for a Dangerous Wild Animal Licence be increased by 2% from £472.34 to £481.70.

- 2.6 That the fee for a Pet Shop Licence be increased by 2% from £220.82 to £225.20.
- 2.7 That the fee for a Riding School Licence be increased by 2% from £235.31 to £240.
- 2.8 That the fee for an Animal Boarding Licence be increased by 2% from £363 to £370.30.
- 2.9 That all fees are non- refundable once an application has been submitted, due to the commencement of processing the licence.
- 2.10 That these fees will commence on 5th April 2017 and will apply to all new and renewed licences applications and all performing animal registrations and variation applications received on or after that date.

### **3. BACKGROUND**

- 3.1 When considering licence fees, Members must have regard to the requirement that charges must be proportionate and reasonable in the circumstances to the fees or costs payable under the provisions of the scheme. In essence, the fees must not exceed the costs of the procedures and formalities (effectively the costs to administer the process). The costs of paying for enforcement of the unlicensed operators should not be a consideration when setting fees.
- 3.2 The Licensing Committee terms of reference enables the Committee to determine the licence fees for the licences specified above.

#### London Local Authorities Act 1991 – Massage and Special Treatment Licences and Pulse Light Laser Treatments

- 3.3 The London Local Authorities Act 1991 required all business that offers any of the following treatments to be licensed by the Local Authority:
- Massage
  - Manicure
  - Acupuncture
  - Tattooing
  - Cosmetic Piercing
  - Chiropody
  - Light Treatment
  - Electric Treatment
  - Other Treatment of a Like Kind
  - Vapour
  - Sauna or Other Baths (Including Infra-red Sauna cabin)

- 3.4 However, exemptions do apply if any of the following situations are applicable and if the operators of the massage or special treatment are:
- Supervised by registered medical practitioners
  - Bona fide members of a body of health practitioners
  - Appropriately registered dentist practising acupuncture
  - Hospital registered Nursing Homes.
- 3.5 The Local Authority is able to set a local fee to enable cost recovery from the process of issuing such licences. Currently there are over 200 licence holders in the Borough.
- 3.6 An increase of 2% has been added to the licence fee as agreed by the Licensing Committee last year. When adding the increase, the Massage and Special Treatment licence fee increases from £322 to £328.40 and the Intense Pulse Light licence increases from £518 to £528.

Performing Animals (Regulation) Act 1925 - Performing Animals Registration and Variation

- 3.7 The registration for the performance of animals is controlled under the Performing Animals (Regulation) Act 1925 and anyone who wishes to use animals to perform must first register with the local authority. Applications must contain details about the animals and the performances they are to take part in. Applications are subject to a fee.
- 3.8 The Local Authority is able to set a local fee to enable cost recovery from the process of issuing such licences.
- 3.9 The registered person may make an application to have the details entered in the register varied, and where there is such a variation to the details, then the existing registration must be cancelled and a new one issued. The Council may charge a fee as appears to be appropriate for processing an application made under the legislation.
- 3.10 The increase has been added to the current licence fee as agreed by the Licensing Committee previously. When adding the increase, the Performing Animal Registration fee increases from £364.00 to £371.30 and the performing animal variation from £272 to £277.50.

Dangerous Wild Animals Act 1976- Dangerous Wild Animal Licence

- 3.11 The Dangerous Wild Animals Act 1976 requires no persons to keep animals considered to be dangerous in the schedule to the Act 'Kinds of Dangerous Wild Animals' unless they are licenced by the local authority.

- 3.12 The Local Authority is able to set a local fee to enable cost recovery from the process of issuing such licences.
- 3.13 The 2% has been added to the current licence fee as agreed by the Licensing Committee previously. When adding the increase, the Performing Animal Registration fee increases from £472.34 to £481.70

#### Pet Animals Act 1951- Pet Shop Licence

- 3.14 The Pet Animals Act 1951 requires persons keeping a pet shop to be licenced by the local authority. A pet shop licence must be renewed every year.
- 3.15 The Local Authority is able to set a local fee to enable cost recovery from the process of issuing such licences.
- 3.16 The 2% has been added to the current licence fee as agreed by the Licensing Committee previously. When adding the increase, the Pet Shop fee increases from £220.82 to £225.20.

#### The Riding Establishments Act 1964 and 1970- Riding Establishment Licence

- 3.17 The Riding Establishment Act requires persons operating a riding establishment to be licenced by the local authority. A riding establishment licence must be renewed every year.
- 3.18 The Local Authority is able to set a local fee to enable cost recovery from the process of issuing such licences.
- 3.19 The 2% has been added to the current licence fee as agreed by the Licensing Committee previously. When adding the increase, the Riding Establishment Licence fee increases from £235.31 to £240.

#### Animal Boarding Establishments Act 1963 – Animal Boarding Establishment Licence

- 3.20 The Animal Boarding Establishments Act 1963 requires any persons keeping an animal boarding establishment in a private or commercial property to be licenced by the local authority. Animal boarding establishments include overnight accommodation facilities and animal day care facilities.
- 3.21 The Local Authority is able to set a local fee to enable cost recovery from the process of issuing such licences.
- 3.22 The 2% has been added to the current licence fee as agreed by the Licensing Committee previously. When adding the increase, the Animal boarding establishment licence fee increases from £363 to £370.30.

- 3.23 It is recommended that these fee increases will apply from the commencement of the new financial year, 5<sup>th</sup> April 2017.

#### **4. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 4.1 The annual review of Fees and Charges report was presented to Cabinet on 10<sup>th</sup> January 2017. The report advised on the strategic approach and guiding principles to the review as part of the financial and business planning process.
- 4.2 In general fees and charges recover some or all of the costs of services from Users. This generates income which reduces the costs of services to Council tax payers and can also be used to achieve other strategic objectives, such as encouraging the use of services. A decision to charge for, or to subsidise services needs to be based on rational considerations, which in the case of the services in this report is to enable cost recovery.
- 4.3 The proposals presented to the Licensing Committee are consistent with those agreed by Cabinet. Unless there is a compelling reason for amending the approved discretionary fees and charges, the recommendation is to increase by a minimum of RPI (2% as at September 2016).
- 4.4 The financial impact of the increase in fees have been included in the Medium Term Financial Strategy and reflected in the income budgets for 2017/18 and future years.

#### **5 LEGAL COMMENTS**

- 5.1 This report is seeking to have the Licensing Committee set fees for certain types of licence applications.
- 5.2 Special treatments licences are granted in accordance with Part II of the London Local Authorities Act 1991 (as amended). Such licences authorise the activities listed in paragraph 3.3 of the report. Section 7(6) of that Act provides that an applicant for the grant, renewal or transfer of a license shall pay such a reasonable fee as determined by the Council.
- 5.3 The Performing Animals (Regulation) Act 1925 places restrictions on the exhibition and training of performing animals without formal registration with the Local Authority. Section 1(2) of that Act provides (that “Every local authority shall keep a register for the purpose of this Act, and any person who exhibits or trains animals as aforesaid on making an application in the prescribed form to the local authority of the district in which he resides, or if he has no fixed place of residence in Great Britain, to the local authority of such one of the prescribed districts as he may choose, and on payment of [such fee as appears to the local authority to be appropriate] shall be registered under this Act, unless he is a

person, who, in pursuance of an order of the court made under this Act, is prohibited from being so registered”.

- 5.4 The Dangerous Wild Animals Act 1976 requires animals considered to be dangerous in the Schedule to the Act to be licensed by the local authority. Section 1(1) (e) says that a licence application should be accompanied by such a fee as the authority may stipulate (being a fee which is in the authority’s opinion sufficient to meet the direct and indirect costs which it may incur as a result of the application).
- 5.5 The Pet Animals Act 1951 states that no person shall keep a pet shop without a licence. Section 1(2) says that every local authority may, on application being made to them for that purpose by a person who is not disqualified from keeping a pet shop, grant a licence at premises in their area subject to compliance with such conditions specified in the licence and on payment of such fee as may be determined by the local authority.
- 5.6 The Riding Establishments Act 1964 and 1970 states that riding establishments are required to be licensed by the local authority. The licence is granted, on payment of such fee as may be determined by the local authority.
- 5.7 The Animal Boarding Establishments Act 1963 makes the boarding of cats and dogs a licensable activity. Section 1(2) of that Act deals with grants upon application for a licence and expressly refers to payment of a fee to be determined by the local authority.
- 5.8 Pursuant to its terms of reference, it is a function of the Licensing Committee “to determine fees and charges for the issue, approval, consent, license, permit or other registration for functions for which the Committee has responsibility”, which includes inter alia the above.
- 5.9 As per section 4 above fees are set on a costs recovery basis. There is an annual increase to ensure that fees are kept in line with the -costs to the Council.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1 No adverse impacts have been identified

## **7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 7.1 There are no adverse impacts identified

## **8. RISK MANAGEMENT IMPLICATIONS**

- 8.1 The Council will be at risk of legal challenge if its decision making process on determining fees is not transparent and evidentially based.

**9. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 9.1 One of the key licensing objectives is to prevent licensed premises from being a source of crime and disorder. This report supports and assists with crime and disorder reduction by controlling those who manage premises open to members of the public and imposing conditions on relevant premises licences.

**10. BEST VALUE (BV) IMPLICATIONS**

- 10.1 The review of fees and adoption of revised fees ensures that the Council can demonstrate that it has complied with its best value duty in this specific technical area to ensure that costs are recovered but that charges do not exceed the costs associated with the operation of the licencing regime.

**11. APPENDICES**

None

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**LOCAL GOVERNMENT ACT, 1972 Section 100D (as amended)**  
**LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT**

None