

Committee :	Date	Classification	Report No.	Agenda Item No.
<b>Licensing Committee</b>	<b>14th October 2014</b>	<b>Unclassified</b>	LC 05/145	

Report of	Title
<b>Consumer and Business Regulations</b>	<b>Fees Review: London Local Authorities Act 1991 and the Performing Animals (Regulation) Act 1925</b>
<b>Originating Officer:</b>	
<b>David Tolley – Head of Consumer and Business Regulations</b>	<b>Wards affected: All</b>

## **1 SUMMARY**

- 1.1 This report advises the Members of a review that has taken place with regards to licence fees that can be set locally. The fees under consideration are those for Massage and Special Treatments and Performing Animals Registration.

## **2. RECOMMENDATIONS**

The Licensing Committee is recommended to:-

- 2.1 Agree that the fee for Massage and Special Treatment licences, including Intense Pulse Light laser treatment, be increased by RPI 2.5% raising Massage and Special Treatment Licences from £311 to £319 and Intense Pulse Light laser treatment licences from £500 to £513.
- 2.2 Agree 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 Agree that the fee for Performing Animals registration is raised from £188 to £360, based on the calculations in Appendix One.
- 2.4 Agree that a fee for a Variation of a Performing Animals registration be set at £269 based on the calculations in Appendix One.
- 2.5 Agree that all fees are non- refundable once an application has been submitted, due to the commencement of processing the licence.

- 2.6 Resolve that these fees will commence on 1 November 2014 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 108 licence holders in the Borough.
- 3.6 The RPI of 2.5% has been added to the licence fee as agreed by the Licensing Committee last year. When adding the increase of RPI, the Massage and Special Treatment licence fee increases from £311 to £319 and the Intense Pulse Light licence increases from £500 to £513.

*Performing Animals (Regulation) Act 1925*

- 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 Registration under The Performing Animals (Regulation) Act 1925 is not renewable and the registered person can keep that registration for life, unless their registration is suspended or cancelled by a court of law. Once a registration is issued, it is unlikely that the authority will have much interaction with applicants unless there are some reportable changes to the registration. Lack of involvement in this way could result in the Council having out of date information on the validity of existing registrations.
- 3.9 When considering a registration the following matters are taken into account.
- transport of animals to and from the event
  - access to suitable accommodation at all times, with regard to the size, temperature, lighting, ventilation, and cleanliness;
  - animals will be suitably fed, watered, rested and visited at suitable intervals;
  - reasonable precautions to prevent the spread among animals of infectious and zoonotic diseases;
  - appropriate steps will be taken to protect the animals in the event of a fire or other emergency;
  - anyone in contact with the animals should be made aware of any risks associated with such contact;
  - all the necessary risk assessments should have been conducted on the proposed performances to be engaged in by the animals.
- 3.10 An Environmental Health Officer from the Council will visit the premises to be used to ensure that the above conditions are met. The Council must also maintain a public register.

- 3.11 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.
- 3.12 The Council currently charges £188.00 for the processing of an application for a Performing Animals Registration. The Council has not made provision to charge for an application for a variation of the registration details.
- 3.13 In the past there has not been a demand for this service, and in the last 6 years there have been three Performing Animals Registration Certificates issued in the borough, although in the last two years there has been an increase in enquires about Performing Animals Registrations. The most recent registration issued was in February 2014 in respect Lady Dinah's Cat Emporium in Bethnal Green.
- 3.14 The calculation shown in Appendix One has determined the cost of processing a new registration to be £360 and for a variation of registration to be £269.

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

- 4.1 This report seeks the review and approval of the recommended increases in the following licences:
- Massage and Special Treatment Fees increased to £319
  - New Application and Renewal for Intense Pulse Light laser treatment increased to £513
  - Performing Animals registration £360 and the fee for a variation to the registration to be set at £269

The proposed fee increases are set at values that will enable the council to recover the administrative and enforcement costs associated with issue of the relevant licence and therefore will contribute to the service being cost neutral.

**5 CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)**

- 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. 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 Pursuant to its terms of reference, a function of the Licensing Committee is “To determine fees and charges for the issue, approval, consent, license, permit or other registration for functions for which the Committee has responsibility”. The Committee has responsibility for licensing of establishments that provide special treatments and also the licensing of performing animals as set out in paragraph 3.7 above.
- 5.4 Before taking the decision to increase fees, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who do not.

**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. EFFICIENCY STATEMENT**

- 10.1 There are no efficiency elements to this report.

**11. APPENDICES**

- Appendix 1 Calculation for a Performing Animals Registration and Variation Certificate  
Appendix 2 Performing Animals Registration and Variation Certificate Background Information

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

None