


Non-Executive Report of the:  <b>Licensing Committee</b>  <b>6 October 2015</b>	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Steve Halsey: Head of Paid Service and Corporate Director of Communities, Localities and Culture	<b>Classification:</b> Unrestricted
Fees Review: London Local Authorities Act 1991 and the Performing Animals (Regulation) Act 1925	

<b>Originating Officer(s)</b>	David Tolley: Head of Consumer and Business Regulations
<b>Wards affected</b>	All

## 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, Performing Animals Registration and Animal Boarding Establishments.
  
- 1.2 The report also requests that Members approve the adoption of the Chartered Institute of Environmental Health Model Licence conditions for Animal Boarding Establishments.

## **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 1.0% raising Massage and Special Treatment Licences from £319 to £322 and Intense Pulse Light laser treatment licences from £513 to £518.
- 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 increased by 1.0% raising Performing Animals registration from £360 to £364.
- 2.4 Agree that a fee for a Variation of a Performing Animals registration is increased by 1.0% raising a Variation of a Performing Animals registration from £269 to £272.
- 2.5 Agree that a fee for Animal Boarding Establishment, (including Home Boarding Establishments), be set at £363 based on the calculations in Appendix One.
- 2.6 Approves the licence conditions for Animal Boarding Establishments.
- 2.7 Agree that all fees are non- refundable once an application has been submitted, due to the commencement of processing the licence.
- 2.8 Resolve that these fees will commence on 1November 2015 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. REASONS FOR THE DECISIONS**

- 3.1 (a) To ensure that charges for licence fees are proportionate and reasonable and cover but do not exceed the costs associated with the operation of the licencing regime  
  
(b) To ensure that the Council has model conditions for Animal Boarding Establishments that is fit for purpose.

## **4. ALTERNATIVE OPTIONS**

- 4.1 No revisions to existing charging regimes. This would not be consistent with the Councils best value duty.
- 4.2 Do not agree to the model conditions for animal boarding establishments.

This could result in the council attempting to impose conditions that are not fit for purpose. Again this would not be consistent with the Councils best value duty

## **5. DETAILS**

5.1 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.

5.2 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*

5.3 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)

5.4 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.

5.5 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.

5.6 The RPI of 1.0% has been added to the licence fee as agreed by the

Licensing Committee. When adding the increase of RPI, the Massage and Special Treatment licence fee increases from £319 to £322, the Intense Pulse Light licence increases from £513 to £518., the fee for Performing Animals registration increases from £360 to £364 and the fee for a Variation of a Performing Animals registration is increased from £269 to £272 and based on the calculations in Appendix One a fee for Animal Boarding Establishment, (including Home Boarding Establishments), is set at £363.

### Animal Boarding Establishments Act 1963

- 5.7 Establishments where the boarding of animals is being carried on as a business, (catteries and kennels), are subject to the 1963 Act, which requires such establishments to be licensed by the local council. For the purpose of this Act the keeping of such establishments is defined as the carrying on at any premises, including a private dwelling, of a business of providing accommodation for other people's cats and dogs. The licence is granted at the discretion of the local council. There are exceptions to licensing requirements if keeping of the animals are not the main activity of the premises. Examples of this would be a vets or dog grooming business.
- 5.8 Applications must contain details about the animals and premises they are kept at. Applications are subject to a fee and Licences are renewable annually. New applicants will be required to submit a veterinary surgeon or practitioner's report, (costs to be paid by themselves), in support of their application for an Animal Boarding Establishment Licence. .
- 5.9 When considering a license application the following matters are taken into account
- (a) that animals will at all times be kept in accommodation suitable as respects construction, size of quarters, number of occupants, exercising facilities, temperature, lighting, ventilation and cleanliness;
  - (b) that animals will be adequately supplied with suitable food, drink and bedding material, adequately exercised, and (so far as necessary) visited at suitable intervals;
  - (c) that all reasonable precautions will be taken to prevent and control the spread among animals of infectious or contagious diseases, including the provision of adequate isolation facilities;
  - (d) that appropriate steps will be taken for the protection of the animals in case of fire or other emergency;
  - (e) that a suitable consistent level of management is maintained including a register be kept containing a description of any animals received into the establishment, date of arrival and departure, and the name and address of the owner, such register to be available for inspection at all times by an officer of the local authority, veterinary surgeon or veterinary practitioner authorised under section 2(1) of this Act;

and shall specify such conditions in the licence, if granted by them, as appear to the local authority necessary or expedient in the particular case for securing all the objects specified in paragraphs (a) to (e) above.

- 5.10 Licences shall also incorporate the requirements of the Animal Welfare Act 2006. The Act requires that those responsible for an animal take all reasonable steps to meet the needs of that animal, which are set out in the Act as follows:
- a) it's need for a suitable environment;
  - b) it's need for a suitable diet;
  - c) it's need to be able to exhibit normal behaviour patterns;
  - d) any need it has to be housed with, or apart from, other animals;
  - e) it's need to be protected from pain, injury, suffering or disease.
- 5.11 Any person disqualified from: -
- keeping a boarding establishment for animals; or
  - keeping a pet shop; or
  - having the custody of animals,
- will not be granted a boarding establishment licence.
- 5.12 An Environmental Health Officer from the Council will inspect the premises to be used to ensure that the above conditions are met. The Council must also maintain a public register.
- 5.13 The aim of the licence conditions is to ensure high standards of animal care, health and safety and welfare are maintained in animal boarding establishments. Any person who contravenes the provisions of the Animal Boarding Establishments Act 1963 shall be guilty of an offence; and if any condition subject to which a licence is granted in accordance with the provisions of the Act is contravened or not complied with, the person to whom the licence was granted shall be guilty of an offence.
- 5.14 There are currently no Animal Boarding Establishments in the borough and so the Council has not made provision to charge for an application for an Animal Boarding Establishment. Reports on market trends suggest that the UK pet industry is diversifying and that such premises are on the increase.
- 5.15 There is a national trend towards Council's extending the boarding remit to allow for the boarding of dogs in particular, to be kept in domestic dwellings, these are known as Home Boarders. It is not the intention to unreasonably burden home boarding businesses and all enforcement activities will be undertaken in a sensible and proportionate manner in line with the Council's enforcement policy.
- 5.16 Recognised national guidance covering the regulation of Dog and Cat Boarding Establishments were drawn up by the Chartered Institute of Environmental Health and recognises the trend for home boarding for dogs. The Working Party that drew up the Model Licence Conditions and Guidance

recommends that local authorities licence premises and apply appropriate and relevant conditions to ensure the prevention of spread of disease between animals and to ensure the health, safety and welfare of the individual animal being boarded. These proposed conditions are contained in Appendix 3, Model Licence Conditions and Guidance for Cat Boarding Establishments, and Appendix 4, Model Licence Conditions and Guidance for Dog Boarding Establishments.

- 5.17 The maximum number of cats and dogs which will be boarded is dependent on the size of the area designated for the boarding of cats and dogs in the dwelling house and will be determined by the Health and Safety Inspector at the time of the inspection, taking into account the findings of the Report of the Veterinary Surgeon or Practitioner.
- 5.18 Dogs will live in the house as family pets but will have access to an exercise area and they should be controlled so as not to create a nuisance or annoyance to neighbouring properties.
- 5.19 Licensing for home boarding will follow the current process for kennels as it is in effect a scaled down version of a commercial operation.
- 5.20 The same application form will be used and the procedure will include an inspection of the dwelling similar to the current inspection of kennels.
- 5.21 Application for a licence will need to consider whether planning permission is required for the proposed licensed activity and seek advice from the Planning Department.
- 3.22 The calculation shown in Appendix One has determined the cost of processing an Animal Boarding Establishment licence to be £363.

#### *Performing Animals (Regulation) Act 1925*

- 5.23 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.
- 5.24 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.
- 5.25 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.

5.26 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.

5.27 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.

5.28 When the RPI of 1.0% has been added to the licence fee the fee for Performing Animals registration increases from £360 to £364 and the fee for a Variation of a Performing Animals registration is increased from £269 to £272.

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

6.1 This report seeks approval for the review undertaken on the licence fees and recommends that they be increased by 1% from the 1<sup>st</sup> November 2015 as followed:

- Massage and Special Treatment Fees increased to £322
- New Application and Renewal for Intense Pulse Light laser treatment increased to £518
- Performing Animals registration £364 and the fee for a variation to the registration to be set at £272

6.2 Members are also asked to approve the adoption of the Chartered Institute of Environmental Health Model Licence conditions for Animal Boarding Establishments and the licence fee set at £363 as calculated in Appendix One.

6.3 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.

## **7 LEGAL COMMENTS**

- 7.1 This report is seeking to have the Licensing Committee set fees for certain types of licence applications.
- 7.2 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.
- 7.3 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.
- 7.4 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”.
- 7.5 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.
- 7.6 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 on-cost to the Council.

## **8. ONE TOWER HAMLETS CONSIDERATIONS**

- 8.1 No adverse impacts have been identified

## **9. BEST VALUE (BV) IMPLICATIONS**

- 9.1 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.

9.2 Adoption of a strong standard for Model Licence conditions for Animal Boarding Establishments demonstrates the best value requirement to continuously improve.

**10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

10.1 There are no adverse impacts identified

**11. RISK MANAGEMENT IMPLICATIONS**

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

**12. CRIME AND DISORDER REDUCTION IMPLICATIONS**

11.1 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.

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**Linked Reports, Appendices and Background Documents**

**Linked Report**

NONE

**Appendices**

- Appendix 1 Calculation for a Performing Animals Registration and Variation Certificate
- Appendix 2 Performing Animals Registration and Variation Certificate Background Information
- Appendix 3 Model Licence Conditions and Guidance for Cat Boarding Establishments
- Appendix 4 Model Licence Conditions and Guidance for Dog Boarding Establishments

**Local Government Act, 1972 Section 100D (As amended)  
List of “Background Papers” used in the preparation of this report**

List any background documents not already in the public domain including officer contact information.

- NONE.

**Officer contact details for documents:**

- N/A