

Licensing Committee (Non Licensing Act 2003 Functions)

Date: **12 October 2023**

Time: **3.00pm**

Venue **Council Chamber, Hove Town Hall, Norton Road, Hove, BN3
3BQ - HTH/CC**

Members: Daniel (Chair), Sheard (Deputy Chair), Pickett (Opposition
Spokesperson), Davis, Baghoth, Cattell, Czolak, Fowler, Hewitt,
Lyons, McGregor, Nann, Robinson, Theobald and Thomson

Contact: **Thomas Bald**
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AGENDA

9 PROCEDURAL BUSINESS

(a) Declaration of Substitutes: Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

(b) Declarations of Interest:

- (a) Disclosable pecuniary interests
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(c) Exclusion of Press and Public: To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: *Any item appearing in Part Two of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

10 MINUTES OF THE PREVIOUS MEETING

7 - 10

11 CHAIR'S COMMUNICATIONS

12 CALLOVER

- (a) Items (15 – 16) will be read out at the meeting and Members invited to reserve the items for consideration.
- (b) Those items not reserved will be taken as having been received

and the reports' recommendations agreed.

13 PUBLIC INVOLVEMENT

To consider the following matters raised by members of the public:

- (a) **Petitions:** to receive any petitions presented to the full council or at the meeting itself;
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on the 6 October 2023;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on the 6 October 2023.

14 MEMBER INVOLVEMENT

To consider the following matters raised by councillors:

- (a) **Petitions:** to receive any petitions submitted to the full Council or at the meeting itself;
- (b) **Written Questions:** to consider any written questions;
- (c) **Letters:** to consider any letters;
- (d) **Notices of Motion:** to consider any Notices of Motion referred from Council or submitted directly to the Committee.

15 HACKNEY CARRIAGE & PRIVATE HIRE DRIVER ENFORCEMENT AND MONITORING 11 - 18

Contact Officer: Alex Evans
Ward Affected: All Wards

Tel: 0127329

16 LICENCE FEES 2024/2025 19 - 32

Contact Officer: Jim Whitelegg
Ward Affected: All Wards

Tel: 01273 292438

17 ITEMS REFERRED FOR COUNCIL

To consider items to be submitted to the 19 October Council meeting for information.

In accordance with Procedure Rule 24.3a, the Committee may determine that any item is to be included in its report to Council. In addition, any Group may specify one further item to be included by notifying the Chief Executive no later than 10am on the eighth working day before the Council meeting at which the report is to be made, or if the Committee meeting take place after this deadline, immediately at the conclusion of the Committee meeting.

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The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fourth working day before the meeting.

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FURTHER INFORMATION

For further details and general enquiries about this meeting contact , (01273 291354, email thomas.bald@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

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Date of Publication - Wednesday, 4 October 2023

BRIGHTON & HOVE CITY COUNCIL
LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.00PM 29 JUNE 2023

COUNCIL CHAMBER, HOVE TOWN HALL, NORTON ROAD, HOVE, BN3 3BQ - HTH/CC

MINUTES

Present: Councillors Daniel (Chair), Sheard (Deputy Chair), Pickett (Opposition Spokesperson), Davis, Baghoth, Cattell, Czolak, Fowler, Hewitt, Nann, Robinson, Theobald and Thomson

Apologies: Councillors Lyons and McGregor

PART ONE

1 PROCEDURAL BUSINESS

(a) Declarations of Substitutes

Apologies were sent from Councillors McGregor and Lyons.
There were no substitutes.

(b) Declarations of Interest

There were no declarations of interests in matters listed on the agenda.

(c) Exclusion of Press and Public

The Committee considered whether the press and public should be excluded from the meeting during the consideration of any of the items listed on the agenda.

RESOLVED: That the press and public be not be excluded.

2 MINUTES OF THE PREVIOUS MEETING

RESOLVED – That the minutes of the Licensing Committee (Non-Licensing Act 2003 Functions) Meeting held on 3 March 2023 be agreed and signed as a correct record.

3 CHAIR'S COMMUNICATIONS

The Chair gave the following communications:

I recognise the vital role taxis and private hire drivers play in transporting people, especially vulnerable people, around the city. They are in many ways the eyes and ears of the city and

hold a unique position of trust in the community. Safeguarding the public is our priority and we are proud of our high licensing standards in Brighton and Hove.

Taking people around the city safely is one of the most trusted and important services in the city. I value our taxi trade and I am proud of the very standards we have developed in the city. When I meet councillors from other parts of the country, they envy our record and our Blue Book. Both the council and the trade have been ahead of the game nationally in adapting to the needs and expectations of the public.

I'm looking forward to attending the next Taxi forum and in the meantime I intend to reach out and engage with the various trade representatives that make up the forum. I know that the top item on their agenda is engage with councillors and me, in particular, to discuss proposed changes looking at a "points system" around driver conduct.

I'm pleased that we have been able to find funding, through safer streets 4, to extend the taxi marshal service during the summer and early autumn months. This has been a useful way of increasing the safety of the public and eased the burden on drivers. We hope further funding becomes available and we would bid to continue and extend this work.

It's also good to note that another Multi-Agency Enforcement Operation took place on the 17th June and I look forward to hearing the officers update in their report on our agenda today.

4 CALLOVER

The following item was reserved for discussion:

Item 7 Hackney Carriage and Private Hire Driver Enforcement and Monitoring

5 PUBLIC INVOLVEMENT

There were none.

6 MEMBER INVOLVEMENT

There were none.

7 HACKNEY CARRIAGE & PRIVATE HIRE DRIVER ENFORCEMENT AND MONITORING

7.1 The Chair invited Alex Evans to introduce the report starting on page 11 of the Agenda.

7.2 Councillor Bagthoth was informed that an English language test has been introduced for all new taxi drivers – the test can also be used as a developmental tool for existing taxi drivers that don't speak English as their first language. There are also ethnic groups within the trade that can translate any new conditions to drivers.

7.3 Councillor Czolak was informed that:

- Every driver has to go through a medical and meet the group 2 standard;

- When they reach their 45 birthday they have to take the medical test again, and then every 5 years until their 65th birthday after which it becomes an annual test;
- Discretionary information about drivers can be requested by the Council for example if they have a criminal record;
- There are 7 fully electric vehicles and 150 hybrid vehicles currently in the city;
- The approved garages that do the compliance testing decide if a vehicle is in exceptional condition to last the extra 2 years on the license;
- There are currently 600 Hackney Carriages in the city, and 5 more plates are added each year;
- There are currently 370 private hire vehicles in the city;
- It is a legal requirement for all taxis to have internal cameras which clearly show the driver and passengers.

7.4 Councillor Pickett was informed that:

- Taxi drivers are buying older models of cars as they are cheaper;
- There is a shortage of wheelchair accessible vehicles;
- The offence of 'bilking' (making off without payment after a taxi ride) is being raised with Council officers for awareness.

7.5 Councillor Davis was informed that:

- Vehicles are allowed to have their licenses renewed for up to 10 years, with an extra 2 if the vehicle is in exceptional condition;
- Wheelchair accessible vehicles are allowed to have their licenses renewed for up to 14 years with 3 checks a year up until 2025;
- A points system for taxi drivers who commit low level offences will be brought to Committee in October 2023.

7.6 Councillor Hewitt was informed that during the multi agency operation, vehicles were stopped at random.

7.7 Councillor Theobald was informed that:

- It is often independent drivers that don't accept taxi vouchers instead of drivers on the circuit who can claim them back from the Council;
- Heart attacks, eyesight, and blood pressure are the main causes of why drivers fail the group 2 medical test.

7.8 Councillor Fowler was informed that if the Police find a taxi driver committing an offence, that information is fed back to the Council to take action.

RESOLVED:

1. That Members note the contents of this report and that officers should continue to act as appropriate.

8 ITEMS REFERRED FOR COUNCIL

There were none.

The meeting concluded at 4.26pm

Signed

Chairman

Dated this

day of

LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

Agenda Item 15

Brighton & Hove City Council

Subject: Hackney Carriage & Private Hire Driver Enforcement and Monitoring

Date of Meeting: 12 October 2023

Report of: Executive Director of Housing, Neighbourhoods & Communities

Contact Officer: Name: Martin Seymour / Alex Evans Tel: 296659
E-mail: martin.seymour@brighton-hove.gov.uk

Wards Affected: All

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report was requested by Members to update Members on enforcement action taken against Hackney Carriage & Private Hire Drivers and Applicants between June 2023 and September 2023.

2. RECOMMENDATIONS:

- 2.1 That Members note the contents of this report and that officers should continue to act as appropriate.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Legislation in relation to the Town Police Clauses Act 1847 Local Government (Miscellaneous Provisions) Act 1976 which applies to both hackney carriages and private hire vehicles is enforced by the local authority. Non-criminal enforcement can also be affected by means of action taken against the licence held by the person who has transgressed such as warnings, suspensions, or revocations.
- 3.2 Any driver must be a fit and proper person. It is not possible to give a precise definition of what this is, but at its heart is keeping passengers safe and free from risk. It is the responsibility of the applicant to satisfy the council that they are fit and proper and that they are safe and suitable to hold a licence.

- 3.3 The council can suspend, revoke, or refuse a hackney carriage or private hire vehicles and/or driver licences. However, a driver licence cannot be suspended and then revoked at a later date such as at the conclusion of a prosecution. Other actions are available to officers such as verbal or written warnings which can be applied in line with the Councils [Licensing Enforcement Policy](#).
- 3.4 All cases are looked at on their own individual merit and if necessary, such as in Child Sexual Exploitation (CSE) cases multi agency meetings may be held to review available evidence. When acting against a licence, decisions are investigated by officers and a recommendation is made to a manager who makes the decision in consultation with a lawyer. In addition, the most difficult matters would come to the Chair and to the two lead members for discussion. If a matter was serious and required immediate suspension, then officers would come to members as soon as possible after they had acted.
- 3.5 On the 27 April 2023 the Government announced that it had brought the remainder of the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 into force. This means that it is now mandatory for all licensing authorities in England to use the National Register for Revocations, Refusals and Suspensions (NR3S) Hosted by the National Anti-Fraud Network (NAFN).
- Licensing authorities in England must:
- Record refusals, suspensions and revocations of taxi and private hire vehicle driver licences relating to safeguarding or road safety reasons.
 - Search the NR3S database for every application for a new or renewed taxi and private hire vehicle driving licence and have regard to any information found.
- This is in addition to the requirements that came into effect in May 2022 which require licensing authorities in England to:
- Report serious safeguarding and road safety concerns about licensed drivers operating in their area but licensed by another authority to the relevant licensing authority.
 - Consider suspending or revoking a driver's licence if another GB licensing authority reports a serious safeguarding or road safety concern and inform the reporting authority of its decision.
- 3.5 In addition to day-to-day enforcement work, officers normally carryout weekly out of hours enforcement work, normally at weekends and weekday evenings. This includes monitoring of hot spot areas for over and illegal ranking and plying for hire, vehicle inspections and occasional test purchase operations. General enforcement is essentially checking the vehicle is safe to be on the road and that the driver's details are correct. The officers are trained in vehicle inspection and checks. The officers are trained in vehicle inspection which primarily, it involves checking the tyres, lights, steering, suspension, as well as the general condition of the vehicle, livery and that the meter is working correctly.

3.6 Multi-agency operations take place at various times throughout the year with officers from other Local Authorities, Sussex Police, Driver & Vehicle Standards Agency (DVSA).

3.7 For actions taken against drivers / applicants between June 2023 and September 2023 See Appendix A.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1 None.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 This report is for information purposes only, so there are no financial implications.

Finance Officer Consulted: Michael Bentley Date: 19/09/2023

Legal Implications:

5.2 There are no direct legal implications.

Lawyer Consulted: Rebecca Sidell Date: 02/10/2023

Equalities Implications:

5.3 Licensing authorities must ensure that a safe hackney carriage and private hire service is freely available to meet the demand across all sectors of the public, especially those vulnerable groups to whom a taxi or private hire vehicle is often the only means of completing a journey.

Sustainability Implications:

5.4 None.

Crime & Disorder Implications:

5.5 Contained in the body of the report.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

6.1 None – for information only.

7. REASONS FOR REPORT RECOMMENDATIONS

7.1 For information only.

8. **Appendices**

A. Actions taken against Drivers.

Enforcement Actions Since Licensing Committee June 2023

	Licence Type	Date	Brief Description of Case	Other Information:	Enforcement Action Taken:
1.	First Applicant	15.06.2023	An 18-year-old female passenger reported that during the journey the driver was asking sexual questions and asked her to touch him inappropriately. There was also a similar complaint in relation to conduct with female passengers in October 2021.	Renewal application previously refused 11.02.2023	Application Refused
2.	Hackney Carriage & Private Hire Dual Licence	13.07.2023	Driver does not meet DVLA Group 2 Medical Standard		Licence Suspended pending further information
3.	Hackney Carriage & Private Hire Dual Licence	24.07.2023	Police Investigation - Domestic Related		Licence Suspended pending further information
4.	Hackney Carriage & Private Hire Dual Licence	27.07.2023	No valid DBS certificate received		Licence Suspended
5.	Hackney Carriage & Private Hire Dual Licence	27.07.2023	No valid DBS certificate received		Licence Suspended
6.	Hackney Carriage & Private Hire Dual Licence	27.07.2023	No valid DBS certificate received	Reinstated 10.08.2023	Licence Suspended
7.	Hackney Carriage & Private Hire Dual Licence	27.07.2023	No valid DBS certificate received		Licence Suspended
8.	Hackney Carriage & Private Hire Dual Licence	28.07.2023	No valid DBS certificate received	Reinstated 30.08.2023	Licence Suspended

9.	Private Hire Driver Licence	28.07.2023	No valid DBS certificate received	Reinstated 01.08.2023	Licence Suspended
10.	Private Hire Driver Licence	28.07.2023	No valid DBS certificate received	Reinstated 28.07.2023	Licence Suspended
11.	Hackney Carriage & Private Hire Dual Licence	01.08.2023	Driver does not meet DVLA Group 2 Medical Standard	Reinstated 08.09.2023	Licence Suspended pending further information
12.	Hackney Carriage & Private Hire Dual Licence	02.08.2023	No valid DBS certificate received		Licence Suspended
13.	Private Hire Driver Licence	02.08.2023	No valid DBS certificate received		Licence Suspended
14.	Hackney Carriage & Private Hire Dual Licence	03.08.2023	Driver had RTC with motorcycle after going through a red light.	Reinstated 25.08.2023	Licence Suspended
15.	Hackney Carriage & Private Hire Dual Licence	10.08.2023	Driver does not meet DVLA Group 2 Medical Standard		Licence Suspended pending further information
16.	Hackney Carriage & Private Hire Dual Licence	11.08.2023	Driver does not meet DVLA Group 2 Medical Standard	Reinstated 16.08.2023	Licence Suspended pending further information
17.	Private Hire Driver Licence	11.08.2023	Driver does not meet DVLA Group 2 Medical Standard	Reinstated 22.08.2023	Licence Suspended pending further information
18.	Hackney Carriage & Private Hire Dual Licence	15.08.2023	No valid DBS certificate received		Licence Suspended

19.	Hackney Carriage & Private Hire Dual Licence	15.08.2023	No valid DBS certificate received		Licence Suspended
20.	Hackney Carriage & Private Hire Dual Licence	15.08.2023	Driver does not meet DVLA Group 2 Medical Standard	Reinstated 16.08.2023	Licence Suspended pending further information
21.	Hackney Carriage & Private Hire Dual Licence	15.08.2023	No valid DBS certificate received		Licence Suspended
22.	Hackney Carriage & Private Hire Dual Licence	17.08.2023	Driver does not meet DVLA Group 2 Medical Standard		Licence Suspended
23.	Private Hire Driver Licence	23.08.2023	No valid DBS certificate received	Reinstated 25.08.2023	Licence Suspended
24.	Hackney Carriage & Private Hire Dual Licence	24.08.2023	No valid DBS certificate received		Licence Suspended
25.	Private Hire Driver Licence	24.08.2023	Driver does not meet DVLA Group 2 Medical Standard	Reinstated 08.09.2023	Licence Suspended pending further information

LICENSING COMMITTEE (NON-LICENSING ACT 2003 FUNCTIONS)

Agenda Item 16

Brighton & Hove City Council

Subject: Licence fees 2024/25
Date of Meeting: 12 October 2023
Report of: Executive Director of Housing,
Neighbourhoods & Communities
Contact Officer: Name: Jim Whitelegg, Regulatory Services Manager Tel: 29-2438
Email: Jim.whitelegg@brighton-hove.gov.uk
Ward(s) affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

1.1 This report sets out the proposed licence fees and charges for 2024/25 relating to Street Trading, Sex Establishments and Sex Entertainment Licences, Gambling premises, Taxi Licensing, Body piercing, Scrap metal and Animal Activity Licences.

2. RECOMMENDATIONS:

2.1 That the committee approves the following licence fees for 2024/25:

- Taxi Licence fees - as set out in Appendix 1.
- Sex Entertainment Venues and Sex Establishments fees – as set out in Appendix 2.
- Street Trading fees – as set out in Appendix 2.
- All Gambling Act 2005 fees – as set out in Appendix 2.
- Body piercing – as set out in Appendix 2.
- All Animal Activity Licences fees - as set out in Appendix 3.

A list of agreed fees for 2023/24 and proposed fees for 2024/25 is included in Appendices 1-3.

*Note: If the above recommendations are not agreed, or if the committee wishes to amend the recommendations, then the item will **normally** need to be referred to the Strategy, Finance & City Regeneration Committee meeting on 9 February 2024 to be considered as part of the overall 2024/25 budget proposals. This is because the 2024/25 budget proposals are developed on the assumption that fees and charges are agreed as recommended and any failure to agree, or a proposal to agree different fees and charges, will have an impact on the overall budget proposals, which means it needs to be dealt with by Strategy, Finance & City Regeneration Committee as per the requirements of the constitution. This does not fetter the committee's ability to make recommendations to Strategy, Finance & City Regeneration Committee.*

3. CONTEXT/ BACKGROUND INFORMATION

3.1 In order to ensure that council tax payers are not subsidising work concerning licensing

administration, income is raised by licence fees with the aim of covering the cost of administration of each regime within the constraints of regulation. Licence fees should not be used to raise surplus revenues. The regulation of setting fees is detailed and changes as a result of legislation and cases; outlined below.

Licence Fee Setting – general principles

- 3.2 There must be a proper determination of the authorisation fee (see Hemming 2015, 2017] UKSC).
- 3.3 A clear understanding of the policy and objects of the regime in question is required. It follows that the relevant considerations for vetting an applicant for a street trading licence will be different to those required for a sex establishment (see *R v Manchester City Council ex parte King* (1991) 89 LGR 696; also *R (on the application of Davis & Atkin) v Crawley Borough Council* [2001] EWHC 854 (Admin)). Particular attention needs to be had to those statutory provisions where a power is given to the local authority for the determination of an authorisation fee and other administrative fees.
- 3.4 Applicability of the European Services Directive (see Hemming [2015, 2017] UKSC: The Directive applies to street trading and sex licensing; not gambling or taxis. *The UK left the EU on 31 January 2020, and the transition period (during which EU rules continued to apply in the UK) ended on 31 December 2020. The Services Directive therefore no longer applies to the UK, or to EEA businesses or individuals providing services in the UK. However, the European Union (Withdrawal) Act 2018 preserved the Provision of Services Regulations 2009 (as amended in 2014) for UK nationals and businesses established in the UK and formed under UK law. Regulation 18(4) applies to fees in the same way as the former Directive.*
- 3.5 Different fee levels for different types of application. A licensing authority is entitled to set either the same or different fee levels for different types of applications: i.e. grant, renewal, variation, alteration or transfer. *R v Greater London Council, ex parte Rank Organisation* [1982] LS Gaz R 643.
- 3.6 Recovery of deficit. In *R v Westminster City Council, ex parte Hutton* (1985) 83 L.G.R. 461 it was held that where the fee income generated in one year fails to meet the costs of administering the licensing system, it is open to the local authority to make a proportionate increase in the licence fee for the following year so as to recoup the cost of the shortfall (Hutton at p 518). This longstanding principle was confirmed in Hemming [2012].
- 3.7 Accounting for surplus. In Hemming [2012] EWHC 1260 (Admin) and [2013] EWCA Civ 591 the court determined surpluses as well as deficits are to be carried forward. The licensing authority is not entitled to make a profit. (*R v Manchester ex parte King* 1991 89 LGR 696.
- 3.8 Rough and ready calculations. In Hemming [2012] EWHC 1260 (Admin) and [2013] EWCA Civ 591, the court did not require pin-point precision year on year. The council does not have to adjust the licence fee every year to reflect any previous deficit or surplus, so long as it 'all comes out in the wash' eventually. And the adjustment does not have to be precise: a rough and ready calculation which is broadly correct will do.
- 3.9 Anticipated costs. Cases demonstrate that the fee level may be fixed by reference to anticipated costs of administering the authorisation scheme.

- 3.10 Over-estimation. If the fee levied in the event exceeds the cost of operating the scheme, the original decision will remain valid provided it can be said that the district council reasonably considered such fees would be required to meet the total cost of operating the scheme. R v M ex parte King.

Hackney Carriage & Private Hire

- 3.11 The Council must be able to show that it calculates hackney carriage and private hire licensing fees in accordance with the specific requirements of the Local Government (Miscellaneous Provisions) Act 1976. This requires that such fees have to be reasonable to recover the cost of issue and administration of licences. They cannot be used to raise revenue or fund activities such as taxis marshals. This has been confirmed in a recent court case Cummings and Others v Cardiff City Council which also confirmed that fees set must have regard to any surplus or deficit in previous years for each regime (hackney carriage or private hire).

The recent Court of Appeal case: R. (on the application of Rehman) v Wakefield City Council, December 2019, established that costs of administration under S53(2) of the above act could include the costs of enforcement against drivers of hackney carriages and private hire vehicles.

The Act allows the following costs to be recovered in the fees:

- The reasonable cost of carrying out vehicle inspection to decide if a licence should be granted.
 - The reasonable costs of providing hackney carriage stands.
 - Any reasonable administrative or other costs in connection with vehicle inspection and providing hackney carriage stands and
 - Any reasonable administrative or other costs in the control and supervision of hackney carriage and private hire vehicles.
- 3.12 In recent years, the taxi industry has witnessed significant changes in regulations and safety requirements that necessitate a comprehensive evaluation of licencing fees to take into account the increased officer time required to administer licences and the additional checks now necessary to ensure public safety. There has also been reduction in the number of licences, impacting on income which owing to the increased regulations and safety requirements has not seen a corresponding reduction in officer time. There was a shortfall of approximately £40k last year and we are anticipating a deficit this financial year. Therefore, the proposed increases are necessary to fully recover our costs and to ensure that the council tax payers are not subsidising work concerning the licensing administration.
- 3.13 Private Hire operators play a crucial role in passenger safety. There have been a number conditions imposed on Operators to enhance public safety; these include DBS checks on all directors, as well as ensuring that operators have policies in place to deal with any convictions that their staff may have during the course of the licence. Brighton and Hove City Council has historically had very low operator fees compared to neighbouring authorities, for example in Brighton and Hove we charge £595.00, whereas Lewes and Eastbourne charge £3500.00 for a 5-year licence.
- 3.14 In conclusion, the need to increase licensing fees for taxi drivers, particularly operators, is driven by the increased officer time required to administer licenses and the additional

checks necessitated by enhanced safety measures. By implementing higher licensing fees, the authority can ensure public safety, allocate resources, continue to streamline administrative processes, and continue to support technological advancements for the application process within the taxi industry. These measures will contribute to a safer and more efficient taxi/private hire and operator service that meets the evolving needs of the trade, of passengers and of regulatory standards.

- 3.15 A benchmarking exercise has also been carried out to review our taxi fee levels against other local authorities (both neighbouring and similar authorities). This has highlighted that our fees are significantly lower, especially for Private Hire Vehicle Licences and Private Hire Operator Licence fees. The increases proposed in Appendix 1 addresses this anomaly and ensures that they are set at a level that reasonably reflects the costs involved in the issue and administration of these licences, whilst still remaining lower than our neighbouring and similar authorities.

Sex Establishments and Street Trading

- 3.16 Sex Establishments: The administration of Sex Establishments and Sex Entertainment venues (SEV)s is broken down as follows:
There are 2 Sex Establishments in total, for which renewal applications are processed annually, including officers carrying out annual inspections to ensure compliance with their licence. It is unlikely that a further sex establishment licence would be granted as this would be contra policy.

SEVS: There are 3 SEVs in total. SEV fees are based on licence renewals. It is unlikely that a further SEV licence would be granted as this would be contra policy. Annual inspections are carried out to ensure compliance with their licence.

- 3.17 The proposed fees are set to rise by an average of 5%.

- 3.18 Street Trading: During 2022/23, the majority of inspections carried out by officers were recoverable. The administration of street trading is wholly recoverable, broken down as follows:

Zone A:-

3 pitches at 50 sq ft – all pay quarterly (2 trading, 1 vacant)
2 pitches at 42 sq ft – both vacant

Zone B:-

34 traders

Upper Gardner Street Saturday Market:-

69 pitches

- 3.19 The proposed fees are set to rise by an average of 5%.

Gambling Act 2005

- 3.20 Nationally there has been a transition of Gambling activities from the high street to online and it is likely we shall see this trend continue. The proposed fees have been increased to reflect the statutory maximum and are set out in Appendix 2.

Body Piercing

3.21 These fees have not been reviewed for several years and both a benchmarking exercise has been carried out and a desktop time and motion study undertaken to determine officer time spent on these activities and the proposed fees set out in Appendix 2 ensure that our costs are fully recovered.

Animal Activity Licensing

3.22 It is proposed to raise all fees by 5% as set out in Appendix 3.

4 ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

Fees must be set.

5 COMMUNITY ENGAGEMENT AND CONSULTATION

5.1 Council's finance officer and legal services.

6 CONCLUSION

6.1 Fees must be set.

7 FINANCIAL & OTHER IMPLICATIONS:

7.1 Financial Implications:

The fees and charges recommended in this report have been reviewed in line with the Corporate Fees & Charges Policy and all relevant regulations and legislation. Licence fees must be set annually at a level that it is reasonably believed will cover the costs of providing the service, and in accordance with the legal principles involved. The proposed fees for 2024/25 take account of the significant inflationary pressures, particularly on staffing costs, that the service is facing and ensure that costs are fully recovered. This is necessary in order to ensure that council tax payers are not subsidising work concerning licensing administration. Constitutionally, increases above or below the corporate rate of inflation must be approved by the relevant service committee or Strategy, Finance & City Regeneration Committee and can result in additional contributions toward either the cost of services and/or overheads. Where this is the case, this will be reflected in proposals for the relevant service and will be incorporated within the revenue budget report to Strategy, Finance & City Regeneration Committee and Budget Council in February 2024. Income from fees and charges is monitored as part of the Targeted Budget Monitoring (TBM) process.

Finance Officer Consulted: Michael Bentley

Date: 11/09/23

7.2 Legal Implications:

Legal constraints on setting fees are as follows:

- Fees must be charged in accordance with the requirements of the legislation under which they are charged. Thus for instance the Licensing Act 2003 gives the Council no discretion as they are set centrally by the relevant government department. Other

legislation such as the Local Government (Miscellaneous Provisions) Act 1982 which covers a whole raft of activities and includes street trading and sex establishments simply states that we may charge such fees as we consider reasonable.

The term 'Reasonable' however does not imply wide discretion but incorporates important legal principles and constraints. These were highlighted in the case of *R v Manchester City Council ex parte King* concerning street trading. This case held that the fees charged must be related to the costs incurred in providing the street trading service. They must not be used to raise revenue generally. Fees must be proportionate. This principle is key and applies to other licensing regimes such as sex establishments.

- This principle has been reinforced by the introduction of the European Services Directive which took effect from the end of 2009. The European Union (Withdrawal) Act 2018 preserved the Provision of Services Regulations 2009 (as amended in 2014) for UK nationals and businesses established in the UK and formed under UK law. Regulation 18(4) applies to fees in the same way as the former Directive.
- The processes must be non-discriminatory, justified, proportionate, clear, objective, made in advance, transparent and accessible. Any fee charged for establishing a service can only be based on cost recovery and cannot be set at an artificial high level to deter service sectors from an area. The applicability of the Directive has been discussed in the recent case of *Hemming (and others) v Westminster City Council* (2015) (2017) UKSC. It is permissible for enforcement costs to be included in a licence fee but this element of the fee must be levied once the application has been granted. The Council should schedule regular fee reviews.
- Therefore the trading accounts must be carefully looked at in accordance with these principles. There is a risk of challenge by way of Judicial Review in cases where fees are set at an unreasonable or unlawful level.

Lawyer Consulted: Rebecca Sidell

Date: 03/10/2023

7.3 Equalities Implications:

There are no direct equalities implications.

7.4 Sustainability Implications:

There are no direct sustainability implications.

Any Other Significant Implications:

SUPPORTING DOCUMENTATION

Appendices:

1-3 List of current and proposed fees and charges.

Documents in Members' Rooms

1. None.

2. None.

Background Documents

None

Appendix 1 - Proposed Taxi Licence Fees 2024-25

TAXI LICENCE FEES			
	2023-24	2024-25	
	Agreed Fee £	Proposed Fee £	Change %
Dual Drivers Licence (3 Year)	£343.00	£366.00	6.7%
Private Hire Drivers Licence (3 Year)	£270.00	£288.00	6.7%
Hackney Carriage Vehicle Licence (Full Year)	£206.00	£220.00	6.8%
Private Hire Vehicle Licence (Full Year)	£75.00	£150.00	100.0%
Private Hire Operator Licence (1 or 2 Cars) - 5 year	£167.00	£700.00	319.2%
Private Hire Operator Licence (3 or more Cars) - 5 year	£595.00	£700.00	17.6%
Knowledge Test Fee	£28.00	£49.00	75.0%
Route Test Fee	£39.00	£77.00	97.4%
Vehicle Transfer Fee - Hackney Carriage	£52.00	£220.00	323.1%
Vehicle Transfer Fee - Private Hire	£52.00	£150.00	188.5%

Appendix 2 - Proposed Licensing Fees 2024-25

LICENSING FEES			
	2023-24	2024-25	
	Agreed Fee	Proposed Fee	Change
	£	£	%
Sex Establishments and Venues			
Sex Entertainment Venue	£3,730.00	£3,950.00	5.9%
Sex Establishments - Grants	£4,080.00	£4,320.00	5.9%
Sex Establishments - Renewal	£3,730.00	£3,950.00	5.9%
Sex Establishments - Occasional	£2,200.00	£2,330.00	5.9%
Street Trading			
Upper Gardner Street	£560.00	£590.00	5.4%
Zone B	£670.00	£710.00	6.0%
Zone A 50 sq ft.	£4,620.00	£4,900.00	6.1%
Zone A 42 sq. ft.	£3,790.00	£4,020.00	6.1%
Street Artists	£30.00	£35.00	16.7%
Misc. Short Term	£30.00	£35.00	16.7%
Farmers Maker (per stall)	£240.00	£250.00	4.2%
Small Street Marker (per occasion)	£330.00	£350.00	6.1%
Gambling Act			
Existing Casino - Reg 6 and Reg 8 First Annual and Annual Fees	£2,250.00	£3,000.00	33.3%
Existing Casino - Reg 10 Change of circumstance	£20.00	£50.00	150.0%
Existing Casino - Reg 11 Variation	£1,580.00	£2,000.00	26.6%
Existing Casino - Reg 12 Transfer	£1,350.00	£1,350.00	0.0%
Existing Casino - Reg 13 Copy of Licence	£20.00	£25.00	25.0%
Existing Casino - Reg 14 Reinstatement	£1,350.00	£1,350.00	0.0%
Bingo Premises - Reg 5 (2) (a) Non Conversion - Provisional Statement Premises	£830.00	£1,200.00	44.6%
Bingo Premises - Reg 5 (2) (b) Non Conversion - Other Premises	£1,580.00	£3,500.00	121.5%
Bingo Premises - Reg 6 and Reg 8	£780.00	£1,000.00	28.2%
Bingo Premises - Reg 10	£20.00	£50.00	150.0%
Bingo Premises - Reg 11	£1,580.00	£1,750.00	10.8%
Bingo Premises - Reg 12	£1,200.00	£1,200.00	0.0%
Bingo Premises - Reg 13	£20.00	£25.00	25.0%
Bingo Premises - Reg 14	£1,200.00	£1,200.00	0.0%
Bingo Premises - Reg 15 Provisional Statement	£1,580.00	£3,500.00	121.5%
Adult Gaming Centre - Reg 5 (2) (a)	£830.00	£1,200.00	44.6%
Adult Gaming Centre - Reg 5 (2) (b)	£1,580.00	£2,000.00	26.6%
Adult Gaming Centre - Reg 6 and Reg 8	£780.00	£1,000.00	28.2%
Adult Gaming Centre - Reg 10	£20.00	£50.00	150.0%
Adult Gaming Centre - Reg 11	£1,000.00	£1,000.00	0.0%
Adult Gaming Centre - Reg 12	£1,200.00	£1,200.00	0.0%
Adult Gaming Centre - Reg 13	£20.00	£25.00	25.0%
Adult Gaming Centre - Reg 14	£1,200.00	£1,200.00	0.0%
Adult Gaming Centre - Reg 15	£1,580.00	£2,000.00	26.6%
Betting Tracks - Reg 5 (2) (a)	£830.00	£950.00	14.5%
Betting Tracks - Reg 5 (2) (b)	£1,580.00	£2,500.00	58.2%
Betting Tracks - Reg 6 and Reg 8	£780.00	£1,000.00	28.2%
Betting Tracks - Reg 10	£20.00	£50.00	150.0%
Betting Tracks - Reg 11	£1,250.00	£1,250.00	0.0%
Betting Tracks - Reg 12	£950.00	£950.00	0.0%
Betting Tracks - Reg 13	£20.00	£25.00	25.0%
Betting Tracks - Reg 14	£950.00	£950.00	0.0%
Betting Tracks - Reg 15	£1,580.00	£2,500.00	58.2%
Family Entertainment Centre - Reg 5 (2) (a)	£830.00	£950.00	14.5%
Family Entertainment Centre - Reg 5 (2) (b)	£1,580.00	£2,000.00	26.6%
Family Entertainment Centre - Reg 6 and Reg 8	£600.00	£750.00	25.0%
Family Entertainment Centre - Reg 10	£20.00	£50.00	150.0%
Family Entertainment Centre - Reg 11	£1,000.00	£1,000.00	0.0%
Family Entertainment Centre - Reg 12	£950.00	£950.00	0.0%
Family Entertainment Centre - Reg 13	£20.00	£25.00	25.0%
Family Entertainment Centre - Reg 14	£950.00	£950.00	0.0%
Family Entertainment Centre - Reg 15	£1,530.00	£2,000.00	30.7%
Betting Other - Reg 5 (2) (a)	£830.00	£1,200.00	44.6%
Betting Other - Reg 5 (2) (b)	£1,580.00	£3,000.00	89.9%
Betting Other - Reg 6 and Reg 8	£500.00	£600.00	20.0%
Betting Other - Reg 10	£20.00	£50.00	150.0%
Betting Other - Reg 11	£1,500.00	£1,500.00	0.0%
Betting Other - Reg 12	£1,200.00	£1,200.00	0.0%
Betting Other - Reg 13	£20.00	£25.00	25.0%
Betting Other - Reg 14	£1,200.00	£1,200.00	0.0%
Betting Other - Reg 15	£1,580.00	£3,000.00	89.9%
Lotteries New - Reg 12	£40.00	£40.00	0.0%
Lotteries New - Reg 14	£40.00	£40.00	0.0%
Renewal - Reg 12	£20.00	£20.00	0.0%
Renewal - Reg 14	£40.00	£40.00	0.0%
Body Piercing & Cosmetics			
New premises fee	£76.10	£165.00	116.8%
New practitioner fee	£76.10	£165.00	116.8%
Registration of both a new premises and new practitioner	£152.20	£330.00	116.8%
Other changes (including replacement certificates)	£10.50	£15.00	42.9%

Appendix 3 Current and Proposed Animal Activity Licensing Application Fees 2024/25

Current 2023/24 Fees

Licence Type	Current - New Applicants			Current - Renewals		
	Part A	Part B	Total	Part A	Part B	Total
Dog breeding (Dom)	£220.00	£144.00	£364.00	£199.00	£131.00	£330.00
Dog Breeding (Comm)	£254.00	£165.00	£419.00	£220.00	£144.00	£364.00
Dog Boarding (Dom)	£210.00	£139.00	£349.00	£176.00	£121.00	£297.00
Dog Boarding (Comm)	£254.00	£165.00	£419.00	£220.00	£144.00	£364.00
Cat Boarding	£231.00	£155.00	£386.00	£199.00	£131.00	£330.00
Dog Day Care	£231.00	£155.00	£386.00	£199.00	£131.00	£330.00
Exhibition of animals	£254.00	£165.00	£419.00	£220.00	£144.00	£364.00
Hiring horses	£276.00	£187.00	£463.00	£254.00	£165.00	£419.00
Pet vending	£220.00	£144.00	£364.00	£194.00	£128.00	£322.00

Proposed 2024/25 Fees

New Applicants					Renewals				
Part A	Part B	Proposed Total Fees	Increase	%	Part A	Part B	Proposed Total Fees	Increase	%
£233.00	£153.00	£386.00	£22.00	6.04%	£211.00	£139.00	£350.00	£20.00	6.06%
£269.00	£175.00	£444.00	£25.00	5.97%	£233.00	£153.00	£386.00	£22.00	6.04%
£223.00	£147.00	£370.00	£21.00	6.02%	£187.00	£128.00	£315.00	£18.00	6.06%
£269.00	£175.00	£444.00	£25.00	5.97%	£233.00	£153.00	£386.00	£22.00	6.04%
£245.00	£164.00	£409.00	£23.00	5.96%	£211.00	£139.00	£350.00	£20.00	6.06%
£245.00	£164.00	£409.00	£23.00	5.96%	£211.00	£139.00	£350.00	£20.00	6.06%
£269.00	£175.00	£444.00	£25.00	5.97%	£233.00	£153.00	£386.00	£22.00	6.04%
£293.00	£198.00	£491.00	£28.00	6.05%	£269.00	£175.00	£444.00	£25.00	5.97%
£233.00	£153.00	£386.00	£22.00	6.04%	£206.00	£136.00	£342.00	£20.00	6.21%

Vets Fees *

A recharge to the licensee of the cost to the Authority

* where applicable

Variation / Transfer of Licence	£122.00
Appeals / site visit	Price on application

£129.00	£7.00	5.74%
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