



ADUR & WORTHING  
COUNCILS

Licensing Committee  
13 January 2025  
Agenda Item 6

Ward(s) Affected: All

## Approval of Licensing Fees & Charges 2025/26

### Report by the Director for Sustainability & Resources

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### Executive Summary

#### 1. Purpose

- 1.1. This report sets out the proposed licence fees and charges for 2025/26 relating to locally and nationally set fees. It includes Street Trading, Sex Establishments and Sex Entertainment Licences, Gambling premises, Taxi Licensing, Animal Activity Licences, and Alcohol/Entertainment Licensing.
- 1.2. This financial year will see an increase in licence fees, primarily driven by corporate rate of inflation. As a result, our fee structure for the 2025/26 financial year needs to take account of these rising costs. The majority of fee increases will be at or around 2.5%, except for animal activity licences which are at around 10% and Private Hire and Hackney Carriage fees which have seen an increase between 2 and 15%.

#### 2. Recommendations

- 2.1. Councillors are asked to consider the fees set out in Appendix 1 to apply from 1st April 2025.
- 2.2. Councillors are requested to approve the scale of fees proposed within Appendix 1 to apply from 1st April 2025 and refer these to Full Council for ratification.

- 2.3. Should representations be received following the Council placing a notice in a local newspaper setting out the changes to the street trading, vehicle and operator fees and inviting representations on those changes within 28 days then these will be considered by the Public Health and Regulation Manager in consultation with the Chair of the Licensing Committee.

### **3. Context**

- 3.1 Councils are responsible for administering a range of licences and approvals relating to both national legislation and discretionary functions that are agreed locally. To ensure that council taxpayers 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.
- 3.2 There are licensing services such as the taxi licensing service which operate on a self financing, year-by-year basis, scrap metal licensing and animal welfare licensing operates on a similar basis. This means that the Council has the discretion to set fees for these services on a cost recovery basis with appropriate adjustments for any over or under spend from the previous year. In the event that any one of these best estimates proves to be too wide of the mark revised fees will be calculated in order to comply with the statutory requirements and these would be brought back to the Licensing Committee.
- 3.3 There are also statutory services where fees and charges are prescribed by Government. Changes in the level of fees and charges set by Government are implemented as and when they are issued by the appropriate Department and communicated to service users through appropriate channels, e.g. through the Council's website.

### **4. Issues for consideration**

#### **Licence Fee setting general principles**

- 4.1 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].

- 4.2 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).
- 4.3 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.
- 4.4 Anticipated costs. Cases demonstrate that the fee level may be fixed by reference to anticipated costs of administering the authorisation scheme.

### **Hackney Carriage and Private Hire**

- 4.5 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. This has been confirmed in the 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).
- 4.6 The 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.

- 4.8 Hackney carriage and private hire fees underwent a thorough cost analysis in 2023 to ensure the costs of the licence reflect the cost of producing licences and administering the service.
- 4.9 Current Government guidance states that 3 year driver licences and 5 year operator licences should be provided except for in exceptional circumstances. By offering longer term licences this provides greater protection to licensees as it reduces the risk of licences expiring after a year.
- 4.10 The Adur Hackney Carriage and Private Hire account is currently operating on a deficit and it is anticipated that the reviewed fees will continue to provide for cost recovery. The benefits of this will not be fully recognised year on year, as the 3 and 5 year licences result in some years obtaining increased fees while others appear significantly lower.
- 4.11 Hackney Carriage and Private Hire fees have been recalculated using updated hourly rates which include support and on-costs. Operator fees have been frozen for the past two years as these are already some of the highest in the County and it is proposed to continue to freeze to retain Private Hire Operators in the District.
- 4.12 The revised fees can be found in Appendix 1. A breakdown of the taxi fee analysis can be found in Appendix 2. The Hackney Carriage and Private Hire Summary Account can be found in Appendix 3.

### **Gambling**

- 4.13 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. This has resulted in a reduction in fees being collected. The Council currently charges the statutory maximum fee for all Gambling activities.

### **Scrap Metal, Sex Establishments and Animal Activity**

- 4.14 Costs incurred by the Council in running the licensing service have increased since the fees were reviewed last year. On average all fees have increased after considering the Council's proposed inflation increase of 2.5%. The exception to this is Animal Activity Licences which have increased by approximately 10% following a benchmarking exercise with neighbouring authorities. Results of benchmarking can be

found in Appendix 4. In addition, a new renewal fee has been set to reflect the reduced costs of renewals compared to a new licence application. Street Trading Consents have increased between 4 and 8% which reflect additional work undertaken in non consented activities.

### **Alcohol and Entertainment**

4.15 These are Statutory Charges and are set by the Government.

### **Pavement - Tables and Chairs**

4.16 These are being considered by a separate report but once agreed shall form part of the licensing fees and charges.

## **5. Engagement and Communication**

5.1 If Councillors are minded to change the Street Trading, Hackney Carriage and Private Hire operator fees as detailed in Appendix 1, the Council shall place a notice in a local newspaper setting out the changes to the vehicle fees and inviting representations on those changes within 28 days. A copy of the notice shall also be available at Council Offices for inspection. Should objections be received the Council should consider these and set the fee with or without modification. It is proposed that the Public Health and Regulation Manager be delegated to set the fee in consultation with the Chair of the Licensing Committee not later than 2 months after the notice expires.

5.2 Last year the committee requested that officers undertake research to see what can be done to increase the number of low emission and electric vehicles. This matter has been discussed extensively with officers at other Sussex Licensing Authorities and resolved that as fees relate to the cost of the service this was not possible in the fee structure as it costs the authority the same to administer a licence for a combustion engine vehicle as it does for an electric one. Instead consideration is being given to allowing electric vehicles being able to be licensed longer to incentivise their use as part of the handbook review.

## 6. Financial Implications

- 6.1 Setting of discretionary fees and charges is delegated to the Head of Service in consultation with Finance and the Licensing Committee.
- 6.2 The Proposed changes to fees set out in Appendix 1 is expected to result in a small increase in annual discretionary fee income compared to 2024/25. It is not expected that this review will have a significant impact on the number of licences in issue.
- 6.3 The cost of publishing changes to the Street Trading, Hackney Carriage and Private Hire operator fees can be met from the existing revenue budget.

## 7. Legal Implications

- 7.1. Licensing authorities may only set fees which are reasonable and proportionate to the cost of the licensing process and the issuing of the licence (R(Hemming) v Westminster City Council (2017)). Further licensing authorities' entitlement to recover from the licensing fee the costs of the licensing regime are governed by empowering statutes, often limited to cost recovery only, or a reasonable amount. If any set fees are considered unreasonable, the Council could be liable to challenge by way of Judicial Review.
- 7.2. The Council has powers under Section 65, Local Government (Miscellaneous Provisions Act) 1976 ("the Act") to set a tariff for Hackney Carriages. It is important that the tariff set is consistent and unambiguous.
- 7.3. If Members are of a mind to provisionally approve the increase the suggested tariff must be advertised in a local paper giving the proposed variation in fares, a copy of the notice must be lodged at the Council offices, available for inspection by the public "at all reasonable hours", and at least 14 days must be allowed after such publication for any objections.
- 7.4. If there are no objections, or any objections made are withdrawn, the new tariff may come into effect on a date which is not less than 14 days after the date of publication, or the date of withdrawal of the last objection, whichever is later.
- 7.5. If there are objections, the Council must consider them unless previously withdrawn. The new tariff, if imposed by Members after such consideration, will come into effect on a date set by the Committee, which is not more than two months after the first specified day.

## Background Papers

- [Open for business LGA guidance on locally set licence fees](#)

## **Sustainability & Risk Assessment**

### **1. Economic**

- There is a basis in case law that the Council recovers its costs in facilitating and administering licensing. An increase in consumer confidence will benefit the economic viability of such businesses.

### **2. Social**

#### **2.1 Social Value**

- Regulating premises which offer licensable activities has a positive impact on our communities by increasing trust and confidence in these activities.

#### **2.2 Equality Issues**

- Matter considered and no significant issues identified

#### **2.3 Community Safety Issues (Section 17)**

- Effectively licensing these activities will reduce crime and disorder and meet the Council's duties regarding crime and disorder reduction targets. .

#### **2.4 Human Rights Issues**

- Matter considered and no significant issues identified

### **3. Environmental**

- Matter considered and no significant issues identified

### **4. Governance**

- Matter considered and no significant issues identified