

# A G E N D A

## LICENSING COMMITTEE

Tuesday 5 June 2018 at 6.00 pm  
Committee Room A, Royal Tunbridge Wells, Kent TN1 1RS

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**Members:** Councillor Backhouse (Chairman), Councillors Woodward (Vice-Chairman), Bulman, Mrs Cobbold, Gooda, Heasman, Hill, Huggett, Noakes, Nuttall, Podbury, Pope, Thomson and Williams

**Quorum:** 4 Members

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- 1 Chairman's Introduction**  
Announcement on procedural matters.
- 2 Apologies for Absence**
- 3 Declarations of Interest:**  
To receive any declarations of interest by members in items on the agenda. For any advice on declarations of interest, please contact the Monitoring Officer.
- 4 Notification of Visiting Members wishing to speak (in accordance with Council Procedure Rule 18):**  
Members should indicate which item(s) they wish to speak on and the nature of their concern/question/request for clarification.
- 5 Minutes of the Previous Meeting** (Pages 5 - 8)
- 6 Reports of Head of Environment and Street Scene**
  - (A) Gambling Act 2005: Licence Fees 2018/2019 (Pages 9 - 18)
  - (B) Sexual Entertainment Establishment - Licence Fees 2018/2019 (Pages 19 - 24)
- 7 Urgent Business:**  
To consider any other items which the Chairman decides are urgent, for the reasons to be stated, in accordance with Section 100B(4) of the Local Government Act 1972.

**8 Date of Next Meeting**

The next Licensing Committee meeting to be held on Tuesday 4 September 2018, at 6pm.

**Cheryl Clark**  
**Democratic Services Officer**

**Town Hall**  
**ROYAL TUNBRIDGE WELLS**  
**Kent TN1 1RS**  
**Tel: 01892 554413 (Direct Line)**



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### Notes on Procedure

- (1) A list of background papers appears at the end of each report, where appropriate, pursuant to the Local Government Act 1972, section 100D(i).
- (2) Items marked \* will be the subject of recommendation to full Council.
- (3) Members seeking factual information about agenda items are requested to contact the appropriate Service Manager prior to the meeting.
- (4) Members of the public and other stakeholders are required to register with the Democratic Services Officer if they wish to speak on an agenda item at a meeting. Places are limited to a maximum of four speakers per item. The deadline for registering to speak is 4.00 pm the last working day before the meeting. Each speaker will be given a maximum of 3 minutes to address the Committee.
- (5) Please note that the public proceedings of the meeting will be recorded and made available for playback on the Tunbridge Wells Borough Council website. Any other third party may also record or film meetings, unless exempt or confidential information is being considered, but are requested as a courtesy to others to give notice of this to the Democratic Services Officer before the meeting. The Council is not liable for any third party recordings.

Further details are available on the website ([www.tunbridgewells.gov.uk](http://www.tunbridgewells.gov.uk)) or from Democratic Services.

- ◇ **If you require this information in another format, please contact us on 01892 526121**
- ◇ **Accessibility into and within the Town Hall - In response to the requirements of the Disability Discrimination Act 1995, the Council has provided the following features to overcome physical barriers to access.**  
There is a wheelchair accessible lift by the main staircase, giving access to the first floor where the committee rooms are situated. There are a few steps leading to the Council Chamber itself but there is a platform chairlift in the foyer.
- ◇ **Hearing Loop System - The Council Chamber and all the Committee Rooms have been equipped with hearing induction loop systems. The Council Chamber also has a fully equipped audio-visual system.**

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## LICENSING COMMITTEE

Tuesday, 5 December 2017

**Present: Councillor Backhouse (Chairman)**  
**Councillors Mrs Cobbold, Heasman, Hill, Huggett, Jamil, Lidstone, Noakes, Nuttall, Podbury, Sloan (Vice-Chairman), Williams and Woodward**

**Officers in Attendance:** Sharon Degiorgio (Senior Licensing Officer), Robin Harris (Senior Lawyer (Contentious)), Gary Stevenson (Head of Environment and Street Scene), Cheryl Clark (Democratic Services Officer) and Sharon Bamborough (Head of the Licensing Partnership).

**Other Members in Attendance:** None.

### CHAIRMAN'S INTRODUCTION

LC53/17 The Chairman opened the meeting, introduced Committee members and officers in attendance, and outlined procedural matters of the meeting.

### APOLOGIES FOR ABSENCE

LC54/17 Apologies for absence were recorded from Councillor Bulman.

### DECLARATIONS OF INTEREST:

LC55/17 There were no declarations of interest.

### NOTIFICATION OF VISITING MEMBERS WISHING TO SPEAK (IN ACCORDANCE WITH COUNCIL PROCEDURE RULE 18):

LC56/17 There were no visiting members who had registered to speak.

### MINUTES OF THE PREVIOUS MEETING DATED 6 JUNE 2017

LC57/17 The minutes of the previous meeting dated 6 June 2017 were noted as a correct record.

### HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING: LICENCE FEES AND CHARGES 2018/2019

LC58/17 Mrs Bamborough, Head of the Licensing Partnership introduced the report which outlined the proposed review of administration fees in respect of Taxis and Private Hire Licensing. The increase largely reflected inflation and the revised fees and charges proposed were as set out in the agenda report. The next stage was for public consultation and if there were unresolved objections, these would be considered at the next scheduled meeting on 6 March 2018, prior to implementation with effect from 1 April 2018.

There was one registered public speaker. Mr H Altinbas, Treasurer and Secretary to the Tunbridge Wells Taxi Association, wished to complain at the start of this review process about the year on year increase in fees. The Association would organise as many drivers as possible to register their complaints.

Councillor Woodward referred to the schedules of accounts provided in

Appendix A and queried the reduction in salaries in the table for 2017-2018. Mr Stevenson confirmed these were projections for 7 months only. In response to queries from Councillor Williams, Mr Stevenson explained that TWBC Officers were not impacted by the national pay freeze on local authorities as they were subject to local pay and conditions and individual contribution related pay. Councillor Williams had sympathy with local taxi drivers who would be affected by an increase in fees and was disappointed if promised efficiencies and savings from the set up of the Licensing Partnership did not appear to have been achieved. Mr Stevenson pointed out that savings and efficiencies had been made in the earlier years from reductions in staff when setting up the Partnership, and without which the current increases would have been greater.

Councillor Lidstone thanked Mr Altinbas for speaking and accepted that if charges were to be increased it would be reasonable for them to be in line with inflation. He asked whether these increases would not simply be passed on by the trade to customers. Mr Stevenson explained that whilst Private Hire drivers could choose how much to charge, the Hackney Carriage trade had a Council agreed set of tariffs and it was up to the trade if they wished to apply to change the tariffs. Mrs Degiorgio advised that the last fare increases had been agreed in 2011, and since that time the Council had not received any other requests from the trade on this matter. Mr Stevenson and the Chairman both indicated that the increase in licence fees was minimal over the duration of a three year licence period.

Councillor Heasman noted the aim to break even but suggested that further efficiencies might have been achieved in officer time if the need for Licensing Sub-Committees for minor matters could be reduced by giving greater delegated decision making powers to Licensing Officers. Mr Stevenson advised that the numbers of Licensing Sub-Committees had now reduced considerably following the introduction of the computerised knowledge test within the licence application process.

The Chairman noted that the recent addition of the London Borough of Bexley would help reduce overhead costs of the Licensing Partnership in future financial years.

In the absence of further comments, the Chairman referred to the report recommendation and this was proposed by Councillor Woodward, seconded by Councillor Podbury and was by a majority agreed by the Committee. Councillor Williams asked that it be noted that he voted against the proposal.

## **RESOLVED:**

1. That the proposed fees and charges and associated costs for licences in respect of hackney carriage drivers and vehicles and private hire drivers, vehicles and operators, as set out in paragraph 2.11, be approved for formal consultation with the trade and with the public; and
2. That subject to the consideration of any unresolved objections by Licensing Committee at its meeting on 6 March 2018, these be implemented with effect from 1 April 2018.

**URGENT BUSINESS:**

LC59/17      There were no items of urgent business.

**DATE OF NEXT MEETING**

LC60/17      **RESOLVED:**  
That the next meeting take place on Tuesday 6 March 2018.

NOTE: The meeting concluded at 6.30pm.

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<b>Licensing Committee</b>	<b>5 June 2018</b>
Is the final decision on the recommendations in this report to be made at this meeting?	<b>Yes</b>

## Gambling Act 2005: Licence Fees 2018/2019

<b>Final Decision-Maker</b>	Licensing Committee
<b>Portfolio Holder(s)</b>	Councillor Dr Ronen Basu
<b>Lead Director</b>	Paul Taylor Director of Change and Communities
<b>Head of Service</b>	Gary Stevenson, Head of Environment and Street Scene
<b>Lead Officer/Report Author</b>	Sharon Degiorgio, Senior Licensing Officer
<b>Classification</b>	Non-exempt
<b>Wards affected</b>	All

**This report makes the following recommendations to the final decision-maker:**

1. That the Licensing Committee approves fee levels as set out in Appendix A of the report for implementation on 5 June 2018.

**This report relates to the following Five Year Plan Key Objectives:**

- A Prosperous Borough.

It is proposed to set fees which enable the authority to be self-financing with respect to this service within the constraints of the legislation.

<b>Timetable</b>	
<b>Meeting</b>	<b>Date</b>
Licensing Committee	5 June 2018

## **Gambling Act 2005: Licence Fees 2018/2019**

### **1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 The authority is required to review the fees set for the administration of the Gambling Act 2005. This ensures the Council complies with its statutory duty and that the licensing of Gambling premises is self-financing where admissible, in accordance with the Council's Medium Term Financial Strategy.
  - 1.2 A fees model, similar to the one used to first set the Gambling Act fees in 2007, was used to determine the proposed fees for 2018/2019.
- 

### **2. INTRODUCTION AND BACKGROUND**

- 2.1 The Gambling Act 2005, Section 212 gives the Secretary of State power to make regulations prescribing the fees payable to the Licensing Authority. It also gives the power to devolve to Licensing Authorities in England and Wales the freedom to set fees for premises licence applications, subject to any constraints the Secretary of State may prescribe, which includes a maximum fee level.
- 2.2 The government has decided that for England and Wales, Licensing Authorities will determine their own fees for gambling premises licence but that the Secretary of State will prescribe the maximum fee payable for each category of licence. Fees for Gaming Machine Permits and Temporary Use Notices are set by statute.
- 2.3 The maximum levels have been included in Appendix A in brackets for comparison purposes. The previous year's fees are printed in italics for your information. Those cells that are shaded in the body of the table are where we have reached the maximum fee level that may be set.
- 2.4 There is an initial fee to cover the cost of application and an annual fee due every year.
- 2.5 Licensing Authorities have been asked to set fees to ensure full cost recovery and that the fee levels represent fairness and value for money for the gambling industry. All Licensing Authorities must set their fees upon a cost recovery basis only and will be required to review their fee levels on an annual basis to ensure this. The approach taken this year has been to limit any increase to an inflationary increase on last year's fees where eligible.

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2.6 Fees must be set for all types of premises licences and Temporary Use Notices (TUN's).

Premises type

- Casinos
- Bingo
- Betting (off-course)
- Tracks (on-course betting)
- Adult Gaming Centres
- Family Entertainment Centres

2.7 Fees must be set by each Licensing Authority for the following:

- Application for a (new) premises licence
- Application to vary a premises licence
- Application to transfer the licence
- Application for re-instatement of the premises licence
- Application for a provisional statement
- Application for a premises licence for a premises which already has a provisional statement
- Fee to accompany a request for a copy of the premises licence
- Fee to accompany a notification of change of circumstances (only relevant change is that of address)
- Fee to accompany a temporary use notice

2.8 The Borough currently has ten betting premises that will be affected by the proposed fee increases. The betting premises are:

1	Coral 14/02620/GAPRE	33 Mount Pleasant Road, Royal Tunbridge Wells	Betting Premises
2	Coral 14/00594/GAPRE	33 High Street, Cranbrook	Betting Premises
3	Coral 13/03695/GAPRE	2A Camden Road, Royal Tunbridge Wells	Betting Premises
4	Coral 07/00757/GAMBLE	21 Grosvenor Road, Royal Tunbridge Wells	Betting Premises
5	William Hill 12/04431/GAPRE	9 Grosvenor Road, Royal Tunbridge Wells	Betting Premises
6	William Hill 07/00753/GAMBLE	39 Mount Pleasant Road, Royal Tunbridge Wells	Betting Premises
7	Betfred 11/02370/GAPRE	42 Rusthall High Street, Rusthall	Betting Premises
8	Betfred 11/02369/GAPRE	41 Commercial Road, Paddock Wood	Betting Premises
9	Betfred 07/00824/GAMBLE	54 Calverley Road, Royal Tunbridge Wells	Betting Premises
10	Betfred 07/00823/GAMBLE	73 – 75 St. Johns Road, Royal Tunbridge Wells	Betting Premises

- 2.9 The fees were originally calculated by examining the time it takes to carry out the various tasks in processing the application and who in the authority is likely to carry them out. The hourly rates of staff are fed in to a spreadsheet (originally produced by LACORS to calculate the Gambling Act fees) to calculate costs for each type of activity.
- 2.10 The various tasks involved in Gambling premises application include: assistance to applicant, checking of an application upon receipt, processing the application, assessing representations for relevance, undertaking informal mediation, undertaking site visits where necessary. Once processed, various tasks include: determining the licence or arranging a hearing and holding a hearing, notification of the decision, preparation and issuing of the licence, updating the records/register, appeal preparation and holding an appeal hearing.
- 2.11 During the last 12 months the team have undertaken compliance inspections to all the gambling premises within the borough. At the time of the inspections all were demonstrating a high level of compliance.
- 2.12 The costs associated with an appeal and hearings have been estimated and an estimation has been made as to the likelihood of these events occurring, which has been entered into the final calculations. The risk of appeals and hearings occurring has been based on the experience of our partners within the Licensing Partnership.
- 2.13 The result of the calculations is set out in Appendix A of the report. There are three figures for each licence type/fee. The figure in bold font is the new proposed fee, the figure in brackets is the maximum fee set by the legislation and the figure in italics is the existing fee. Those cells that are shaded in the body of the table are where we have reached the maximum level of fee that can be set.
- 2.14 There are no Gambling Premises licences issued for any other type of gambling premises within the Borough.
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### **3. AVAILABLE OPTIONS**

- 3.1 Members may decide not to apply an increase and leave the fee unchanged however this would result in an under recovery of costs which would have to be absorbed by the overall budget. The shortfall would have to be covered from other areas of income within the Licensing Team.
- 3.2 Members may approve the fees as set at in Appendix A.
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### **REFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 3.3 To approve the fees set out in Appendix A to ensure that the fee income reflects the cost of providing the service.
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## 4. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 4.1 The fees will be charged with immediate effect from the date of the Committee decision 5 June 2018 with respect to new applications, and existing premises will be sent invoices prior to the date the annual fee for the premises is due. They will be published on our website.

## 5. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
<b>Legal</b> including Human Rights Act	Should parts of industry believe the authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake judicial review proceedings. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.	Robin Harris, Senior Lawyer (Contentious) Mid Kent Legal Services 24/04/2018
<b>Finance</b> and other resources	It is necessary for the Council to deliver a balanced budget and cover the costs of providing this service.	Jane Fineman Head of Finance and Procurement 25/04/2018
<b>Staffing establishment</b>	No issues identified. This report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service.	Sharon Degiorgio, Senior Licensing Officer 23/04/2018
<b>Risk management</b>	No issues identified. This report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service.	Sharon Degiorgio, Senior Licensing Officer 23/04/2018

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<b>Data Protection</b>	No issues identified. This report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service.	Sharon Degiorgio, Senior Licensing Officer 23/04/2018
<b>Environment and sustainability</b>	No issues identified. This report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service.	Sharon Degiorgio, Senior Licensing Officer 23/04/2018
<b>Community safety</b>	No issues identified. This report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service.	Sharon Degiorgio, Senior Licensing Officer 23/04/2018
<b>Health and Safety</b>	No issues identified. This report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service.	Sharon Degiorgio, Senior Licensing Officer 23/04/2018
<b>Health and wellbeing</b>	No issues identified. This report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service.	Sharon Degiorgio, Senior Licensing Officer 23/04/2018
<b>Equalities</b>	No issues identified. This report is limited to reviewing and setting of fees to contribute towards the recovery of costs of the service.	Sharon Degiorgio, Senior Licensing Officer 23/04/2018

## 6. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: Tunbridge Wells Borough Council's Gambling Act 2005 Fees 5 June 2018 – 31 March 2019

## 7. BACKGROUND PAPERS

Full Council 23 May 2007 – (Setting of fees for Gambling Act 2005)

Previous report re fees

<http://www.culture.gov.uk>

<http://www.gamblingcommission.gov.uk>

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# Appendix A

## TUNBRIDGE WELLS BOROUGH COUNCIL'S GAMBLING ACT 2005 FEES 5 June 2018 – 31 March 2019

The proposed fees are shown in **bold type** in the table below.

For ease of reference the maximum fees identified by DCMS that could be charged are shown in brackets and the previous year's fees are in *italics*.

Premises Type	New Application £			Annual Fee £		
	18/19	Max	17/18	18/19	Max	17/18
Existing Casinos	n/a	n/a	n/a	n/a	n/a	n/a
New Small Casino	<b>8000</b>	(8,000)	<i>7820</i>	<b>4450</b>	(5000)	<i>4340</i>
New Large Casino	<b>9225</b>	(10,000)	9000	<b>7180</b>	(10000)	<i>7005</i>
Bingo Club	<b>2850</b>	(3500)	2785	<b>810</b>	(1000)	<i>790</i>
Betting Premises (excluding Tracks)	<b>2860</b>	(3000)	2790	<b>580</b>	(600)	<i>565</i>
Tracks	<b>1750</b>	(2500)	<i>1710</i>	<b>800</b>	(1000)	<i>780</i>
Family Entertainment Centres	<b>1750</b>	(2000)	<i>1710</i>	<b>655</b>	(750)	<i>640</i>
Adult Gaming Centre	<b>1750</b>	(2000)	<i>1710</i>	<b>800</b>	(1000)	<i>780</i>
Temporary Use Notice	<b>230</b>	(500)	225	<b>N/A</b>		

	Application to Vary	Application to Transfer	Application for Re-Instatement	Application for Provisional Statement	Licence Application provisional Statement holders	Copy Licence	Notification of Change
	£	£	£	£	£	£	£
Existing Casinos	n/a	n/a	n/a	n/a	n/a	n/a)	n/a)
New Small Casino	<b>3915</b> (4000) <i>3820</i>	<b>1690</b> (1800) <i>1645</i>	<b>1690</b> (1800) <i>1645</i>	<b>8000</b> (8000) <i>7875</i>	<b>2895</b> (3000) <i>2825</i>	<b>12</b> (25) <i>12</i>	<b>28</b> (50) <i>28</i>
New Large Casino	<b>4380</b> (5000) <i>4275</i>	<b>2140</b> (2150) <i>2090</i>	<b>2140</b> (2150) <i>2090</i>	<b>9005</b> (10000) <i>8870</i>	<b>4230</b> (5000) <i>4125</i>	<b>12</b> (25) <i>12</i>	<b>28</b> (50) <i>28</i>
Bingo Premises Licence	<b>1710</b> (1750) <i>1670</i>	<b>1200</b> (1200) <i>1200</i>	<b>415</b> (1200) <i>405</i>	<b>2275</b> (3500) <i>2220</i>	<b>1200</b> (1200) <i>1200</i>	<b>12</b> (25) <i>12</i>	<b>28</b> (50) <i>28</i>
Betting Premises (excluding tracks)	<b>1500</b> (1500) <i>1500</i>	<b>1200</b> (1200) <i>1200</i>	<b>410</b> (1200) <i>400</i>	<b>1785</b> (3000) <i>1740</i>	<b>1200</b> (1200) <i>1200</i>	<b>12</b> (25) <i>12</i>	<b>28</b> (50) <i>28</i>
Tracks	<b>1250</b> (1250) <i>1250</i>	<b>950</b> (950) <i>950</i>	<b>390</b> (950) <i>380</i>	<b>1950</b> (2500) <i>1900</i>	<b>950</b> (950) <i>950</i>	<b>12</b> (25) <i>12</i>	<b>28</b> (50) <i>28</i>
Family Entertainment Centres	<b>1000</b> (1000) <i>1000</i>	<b>950</b> (950) <i>950</i>	<b>400</b> (950) <i>390</i>	<b>1780</b> (2000) <i>1735</i>	<b>950</b> (950) <i>950</i>	<b>12</b> (25) <i>12</i>	<b>28</b> (50) <i>28</i>
Adult Gaming Centre	<b>1000</b> (1000) <i>1000</i>	<b>1200</b> (1200) <i>1200</i>	<b>400</b> (1200) <i>390</i>	<b>1780</b> (2000) <i>1735</i>	<b>1200</b> (1200) <i>1200</i>	<b>12</b> (25) <i>12</i>	<b>28</b> (50) <i>28</i>
Temporary Use Notice	n/a	n/a	n/a	n/a	n/a	<b>12</b> (25) <i>11</i>	<b>28</b> (50) <i>27</i>

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<b>Licensing Committee</b>	<b>5 June 2018</b>
Is the final decision on the recommendations in this report to be made at this meeting?	<b>Yes</b>

## Sexual Entertainment Establishment - Licence Fees 2018/2019

<b>Final Decision-Maker</b>	Licensing Committee
<b>Portfolio Holder(s)</b>	Councillor Dr Ronen Basu
<b>Lead Director</b>	Paul Taylor Director of Change and Communities
<b>Head of Service</b>	Gary Stevenson
<b>Lead Officer/Report Author</b>	Sharon Degiorgio, Senior Licensing Officer
<b>Classification</b>	Non-exempt
<b>Wards affected</b>	All

**This report makes the following recommendations to the final decision-maker:**

1. That the Licensing Committee approve the fee levels as set out in paragraphs 2.7 and 2.8 of the report for implementation on 5 June 2018.

**This report relates to the following Five Year Plan Key Objectives:**

- A Prosperous Borough.

It is proposed to set fees which enable the authority to be self-financing with respect to this service.

<b>Timetable</b>	
<b><i>Meeting</i></b>	<b><i>Date</i></b>
Licensing Committee	5 June 2018

## Sexual Entertainment Establishment - Licence Fees 2018/2019

### 1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The authority is required to review the fees set for the administration of the Local Government (Miscellaneous Provisions) Act 1982. This ensures the Council complies with its statutory duty and that the licensing of Sexual Entertainment Establishment premises is self financing, in accordance with the Council's Medium Term Financial Plan.
  - 1.2 A fees model, has been determined in conjunction with the finance department
  - 1.3 To consider reducing the fees for sex establishment licences to reflect the findings of a recent legal ruling that only actual costs can be incorporated into the application fee, and in consideration of the level of enforcement needed.
- 

### 2. INTRODUCTION AND BACKGROUND

- 2.1 Tunbridge Wells Borough Council has statutory responsibility for the administration and enforcement of a wide range of licences, registrations and consents and permits. Many of these schemes allow the Council to charge a fee payable by an applicant for a licence, in order to cover the costs (or a proportion thereof) of the administration of those licence types. In some cases, costs are also permitted to cover other aspects of providing the regulatory scheme.
- 2.2 The basis in setting such fees is generally to ensure full cost recovery, or as close to it as possible. Licensing fees may not be used to generate a profit for Councils.
- 2.3 The European services Directive, as incorporated by the Provision of Services Regulations 2009 provides that fees and charges must "be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities". This principle was affirmed by the courts *in the 2015 case of R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council*, the Supreme Court ruled that licensing authorities could include the costs of regulatory and enforcement activities in determining the licence fees to be paid by licensed operators. The costs charged for the clerical and administrative aspects must be reasonable and proportionate to the actual cost of those procedures.
- 2.4 The fees have been calculated by examining the time it takes to carry out the various tasks in processing the application and who in the authority is likely to carry them out. The hourly rates of staff are fed in to a spreadsheet produced in conjunction with the finance team to calculate costs for each type of activity.

- 2.5 The type of work involved in Sexual Entertainment Establishment premises applications include: assistance to applicant, checking of an application upon receipt, processing the application, assessing representations for relevance, undertaking informal mediation, and undertaking site visits where necessary. Once processed, tasks then involve: determining the licence or arranging a hearing and holding a hearing, notification of the decision, preparation and issuing of the licence, updating the records/register, appeal preparation and holding an appeal hearing.
- 2.6 The costs associated with an appeal and hearings have been estimated and an estimation has been made as to the likelihood of these events occurring, which has been factored the calculations. The risk of appeals and hearings occurring has been based on the experience of our partners within the Licensing Partnership.

### Proposed Fees

- 2.7 It is proposed to adjust the sex establishment licence fees, which have been found to be exceeding costs, so that they accurately reflect the actual costs to the council following a legal ruling in the case of *R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council*.

Licence	Current Fee	Proposed Fee
Grant/New	£3,100	£2,200
Renewal	£3,100	£2,200
Transfer	£1, 625	£600

- 2.8 The result of the calculations is that a fee of £2,200 is set for a new application or a renewal application. The existing fee is £3,100. The experience of our partners is that as many representations are received for a new and a renewal application. However, there is less likely to be representations and a need for a hearing for a transfer of a licence. Therefore the fee for an application to transfer a licence is proposed as £600 a reduction from the existing £1,625 fee.
- 2.9 There are currently no Sex Establishments operating in the Borough.

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### 3. AVAILABLE OPTIONS

- 3.1 Members may decide to leave the fee levels as they are providing they relate to actual costs. The current fees do not reflect actual costs.
- 3.2 Members may approve the fees as set at in paragraph 2.7 and 2.8 in light of case law, as above
-

## 4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Members are asked to approve the proposed fees as set out in paragraph 2.7 and 2.8 of the report.

## 5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 5.1 The fees will be charged with respect to new applications and existing premises. The revised fees will be published on the Council's website.

## 6. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Legal including Human Rights Act	Should parts of industry believe the authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake judicial review proceedings. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.	Robin Harris, Senior Lawyer (Contentious) 11.05.18
Finance and other resources	The fees are set to just cover the costs of administering the Licensing of Sexual Establishments, in line with the Councils user pays principle. This is an academic exercise at present as there are no establishments in the Borough.	Jane Fineman, Head of Finance and Procurement 15.05.18
Staffing establishment	No issues identified.	Sharon Degiorgio, Senior Licensing Officer 10.05.18
Risk management	No issues identified.	Sharon Degiorgio, Senior Licensing Officer 10.05.18
Environment and sustainability	No issues identified.	Sharon Degiorgio, Senior Licensing Officer 10.05.18

Community safety	No issues identified.	Sharon Degiorgio, Senior Licensing Officer 10.05.18
Health and Safety	No issues identified.	Sharon Degiorgio, Senior Licensing Officer 10.05.18
Health and wellbeing	No issues identified.	Sharon Degiorgio, Senior Licensing Officer 10.05.18
Equalities	No issues identified.	Sharon Degiorgio, Senior Licensing Officer 10.05.18
Data Protection	No issues identified.	Sharon Degiorgio, Senior Licensing Officer 10.05.18

## 7. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

None

## 8. BACKGROUND PAPERS

None

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