

# ENVIRONMENTAL & PUBLIC PROTECTION SCRUTINY COMMITTEE 11<sup>th</sup> DECEMBER 2015

## Review of locally set fees in the Environmental Health and Licensing Section

### To consider and comment on the following issues:

- 1) To advertise the proposed hackney carriage and private hire fees in Appendix 1 for a period of 28 days as required by the Local Government (Miscellaneous Provisions) Act 1976 for persons to submit objections. Where there are no objections, the fees shall be implemented immediately following this period of advertisement. Where objections are received, the fees concerned and objections shall be brought back to Council for further consideration and determination.
- 2) To advertise the remainder of the fees in Appendix 1 for a period of 28 days. The reviewed fees to be implemented immediately following this period of advertisement.

### Reasons:

- To receive stakeholders views on the proposed fees.
- To ensure transparency and good practice in fee setting.
- To formulate views for submission to the Executive Board / Council for consideration.

**To be referred to Executive Board / Council for decision: YES**

**Executive Board – 4th January 2016  
County Council – 10th February 2016**

**Executive Board Member Portfolio Holder:**  
Cllr. Jim Jones (Environmental & Public Protection)

<b>Directorate:</b> Communities	<b>Designations:</b>	<b>Tel Nos. / E-Mail Addresses:</b>
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## EXECUTIVE SUMMARY

# ENVIRONMENTAL & PUBLIC PROTECTION SCRUTINY COMMITTEE 11<sup>th</sup> DECEMBER 2015

## Review of locally set fees in the Environmental Health and Licensing Section

### Background

The common principles of setting locally set fees has been recently scrutinised in a high court case (*Hemmings v Westminster*). The outcome of the case has clarified the type of costs that councils can recover through locally set licence fees. This includes the administration, issuing and, where applicable, enforcement of licences. Fee setting must be transparent, must not exceed the cost of the procedure and be open to scrutiny.

As a result of this clarity of costs that may be included in fee setting, 'tool kits' have been devised by the Welsh Licensing Expert Panel which allows for a consistency of approach for Local Authorities when deciding their charges. They allow for Authorities to ensure that all relevant costs are considered during the calculation.

Appendix 1 sets out the proposed fee structure for Environmental Health and Licensing fees.

The proposed charges are the result of a recent review of fees. Previously, only minimal index linked increases have been adopted. During the review, it was identified that;

- Some fees will remain unchanged;
- Some fees will be increased;
- Some fees will decrease and
- Fees will now be set where they were not in place previously.

The following gives some background to the findings of the review:

**Hackney Carriage and Private Hire Licensing** – The section currently licence drivers, operators and vehicles annually. However, from 1st October 2015, the Deregulation Act 2015 legislation provides for licences to be issued every 3 years rather than annually for drivers and every 5 years for operators. There is also a provision in the legislation that annual licences can be issued in 'exceptional circumstances'. As a result, the review has calculated fees for annual and 3/5 year licences. The Trade have been notified that the section is allowing the applicant to choose whether an annual or 3/5 year licence is more suitable for them.

Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 requires Local Authorities to publicise proposed fees for vehicle and operator licences in a local newspaper giving 28 days for persons to submit objections. Where there are no objections, the advertised fees would take immediate effect. However, where there are objections to the proposed fees for either vehicle or operator licences, the objection to the proposed fee will be brought back to Council for consideration. The remaining fees will take effect at the end of the 28 day period. Currently, we have issued 576 Dual Drivers Licences, 355 Hackney Carriage Licences, 97 Private Hire Vehicle Licences and 36 Private Hire Operators Licences.

**Sex establishments** – There has been a significant reduction in these fees. The relevant fees toolkit has been utilised to calculate the proposed fees. Members are minded that the case law referred to above was in regard to excessive fees for sex establishments and many other authorities have been challenged as a result. Currently, there are no establishments in the County that require this type of licence.

**Private Water supplies** – The current fees are the suggested maximum charges set by Welsh Government. During the first 5 years of implementation, Welsh Government paid the charges for the risk assessments. From this year, the Welsh Government are no longer contributing towards these fees. The relevant fees toolkit has been utilised to calculate the proposed fees which has resulted in some fees (for example the risk assessment) to be reduced. In light of the fact that Welsh Government made a contribution towards the risk assessments to date, there should be no challenge from previous charges.

**Tattooing and skin piercing** – This is an initial, on-off registration/licensing fee. The relevant fees toolkit has been utilised to calculate the proposed fees. The Public Health Bill will be establishing a more robust enforcement process for tattooing and skin treatments as this is a very progressive industry. There may be prescribed fees with the introduction of said legislation, however, the proposed fees attached are reflective of current cost recovery. Currently, we have 85 licensed premises and 144 persons registered in the County.

**Safety at Sports Grounds** – The legislations states that Local Authorities may charge for administrating a sports ground safety certificate. We have not charged for this service to date, however, the relevant fees toolkit has been utilised to calculate the proposed fee. There are currently 3 sports grounds that have a safety certificate.

**Food Hygiene rescore** – The relevant fees toolkit has been utilised to calculate the proposed fee and it is found that the charge reflects the officer's time to carry out the visit. It must be highlighted that officers will carry out revisits (at no charge) should there be a concern regarding food hygiene and will endeavour to work with businesses to ensure that the businesses attain a minimum rating of 3. This charge is for a service that is available should the businesses require an official inspection to change the rating score for the public.

Carmarthenshire currently has 1482 premises with a Mandatory food hygiene score. In Carmarthenshire, the ratings reflect this improvement with 64% of food businesses having a rating of 5 and 97% having a rating of 3, 4 or 5.

There are 37 premises scoring 1 or 2, all of whom have been subject to multiple visits by enforcement officers and enforcement action where appropriate in securing broadly compliant standards. Carmarthenshire currently has no businesses with a '0' rating. This year we have received 11 applications for rescore revisits.

**Stray Dogs** – The changes in the fees are reflective of the charges from the dog pound. Having spoken to neighbouring Authorities, the 'first day' charge is slightly higher than the proposed fee which is actually deterring owners from recovering their dogs.

**Housing Act Notice fees** – Currently the policy is to charge a flat fee rate of £400 for the service of statutory notices under the Housing Act 2004. The fee does not reflect the time taken by officers to take the necessary action, is sometimes disproportionate to the actual costs. A more appropriate way of charging for statutory notices would be to calculate the cost of the 'actual time taken' by the officers to take the enforcement action as well as including any other additional costs such as mileage, specialist reports, re-housing. This has been calculated for Housing and Public Protection officers.

The average hourly rate for both Housing and Public Protection officers has been calculated at £75 per hour. We propose, that when serving statutory notices under the Housing Act 2004, to charge an hourly rate of £75 per hour.

**Mobile Home Site licensing** – This legislation was introduced in October 2014 with 12 months lead in period. Officers are currently liaising with the site owners (11 in the county) to ensure that the site management fulfils criteria required by legislation. The relevant fees toolkit has been utilised to calculate the proposed fee and it is found that the charge reflects the officer's time to carry out the visit. We have received 6 applications to date.

**Selective and House in Multiple Occupation (HMO)** – Selective licensing is a discretionary scheme for Local Authorities to adopt to target private rented properties in low demand or where there is significant problems relating to anti social behaviour. Carmarthenshire in March 2014 declared the Tyisha ward as a selective licensing area. There are approximately 400 private rented properties (25% of the overall housing stock in the ward). We currently have 175 selective licenses.

The Authority is aware that there are approximately 500 HMOs within the County. The Authority has a mandatory duty to license the higher risk HMOs. These would include, for example, bedsits and shared accommodation where there are over 5 or more people over 3 or more stories of which there are 35 all of which are licensed. The relevant fees toolkit has been utilised to calculate the proposed fee and it is found that the charge reflects the officer's time to carry out the visit.

**Grant Agency fees** – The fees are reflective of the cost to the local authority in administering such services and there is no need to vary them at this stage. They will be reviewed at regular intervals throughout the lifetime of the schemes.

**Empty Properties / Houses into Homes** – The fee structure has been set by the Welsh Government, as Houses into Homes is a National scheme. The wording specific to the Land Registry charges has been altered, for the purposes of clarity, as the maximum loan available to an individual Applicant is £150,000.

**DETAILED REPORT ATTACHED?**

**NO but Appendix 1 attached**

## IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report.

**Signed:**            **Robin Staines**                            **Head of Housing & Public Protection**

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets
<b>NONE</b>	<b>NONE</b>	<b>NONE</b>	<b>NONE</b>	<b>NONE</b>	<b>NONE</b>	<b>NONE</b>

## CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below:

**Signed:**            **Robin Staines**                            **Head of Housing & Public Protection**

- 1. Local Member(s)** – Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 requires Local Authorities to publicise proposed fees in a local newspaper giving 28 days for persons to submit objections.
- 2. Community / Town Council** – Section 70 of the Local Government (Miscellaneous Provisions) Act 1976 requires Local Authorities to publicise proposed fees in a local newspaper giving 28 days for persons to submit objections.
- 3. Relevant Partners** – N/A
- 4. Staff Side Representatives and other Organisations** – N/A

**Section 100D Local Government Act, 1972 – Access to Information**  
**List of Background Papers used in the preparation of this report:**

**THERE ARE NONE**

Title of Document	File Ref No. / Locations that the papers are available for public inspection