

Licensing Committee Report

Ward(s) affected: All

Report of the Licensing Team Leader

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Charging for Licensing Advice

Executive Summary

This report seeks the approval of the Licensing Committee to begin charging for Licensing Advice for applications under the following Licensing legislation from 1 April 2020:

- Animal Activities
- Charitable Collections
- Gambling Act 2005
- Licensing Act 2003
- Taxi and Private Hire
- Street Trading
- Sexual Entertainment Venues

Recommendation to Licensing Committee

That the Licensing Committee agrees to introduce pre application advice charging for Licensing applications under the following legislative regimes:

- Animal Activities
- Charitable Collections
- Gambling Act 2005
- Licensing Act 2003
- Taxi and Private Hire
- Street Trading
- Sexual Entertainment Venues

starting 1 April 2020; and

To agree to the charging model proposed in this report.

Reason for Recommendation:

To contribute to the Future Guildford strategy of income generation and to ensure cost recovery in respect of the non-statutory licensing functions.

1. Purpose of Report

- 1.1 The purpose of this report is to seek approval from the Committee to begin charging for the non-statutory function of providing licensing advice to prospective applicants.

2. Strategic Priorities

- 2.1 Charging for Licensing Advice will contribute to our fundamental themes as follows:

- **Innovation** – using new ways of working to improve efficiency.

3. Background

- 3.1 The Future Guildford project, designed to address the funding gap facing Local Authorities requires services to be efficient and innovative in order to generate income, and as such the raising of additional income will contribute to this strategic priority.
- 3.2 The Licensing Act 2003 introduced a new mechanism for licensing of alcohol, entertainment and late-night refreshment, transferring some powers to Local Authorities. Fees for Licensing Act applications were originally set in 2005 by legislation and have not been reviewed since. This means that many authorities are not able to set fees to recover costs and many are operating their licensing functions at a loss.
- 3.3 Local Authorities have defined duties around receipt and processing of applications, however there is no statutory requirement to assist applicants through the licensing process. However, many do, as this is seen to assist business and encourage compliance. A number of Authorities have recently started to charge applicants for this pre-application advice in order to recover costs. Such an approach has been common in other regimes such as Planning for some time.

4. Proposed changes

- 4.1 This proposal aims to introduce a chargeable pre-application advice service in order to recover the costs incurred by the licensing service assisting applicants through the licensing process.
- 4.2 The pre-application advice service is primarily aimed at applicants for Premises Licences and Club Premises Certificates under the Licensing Act 2003, but may also be used by applicants for Gambling Licences, Sexual Entertainment Venue (SEV), Street Trading, Taxi and Private Hire drivers, vehicles and operators, all Animal Activity and Charitable Collection Licences.
- 4.3 The Council can set fees for Street Trading, SEV, Taxi and Animal Activity licences to cover costs. By charging a fee for advice on these types of applications, it is envisaged that the current time spent on advising unsuccessful applicants before an application is made without charge will end, as all applicants

will be required to pay for pre-application advice. This, in turn should reduce officer time spent, reducing the overall licensing fee.

- 4.4 The Council cannot charge a fee for the grant of a Charity Collection Licence. By charging a fee for advice on this type of application it is envisaged that the Council will be able to cover some of the costs associated with this function.
- 4.5 The service is available to assist applicants in preparing applications with a view to diminishing issues which may arise during the licence application process as a result of an incomplete or inadequately drafted application. Applicants have a suite of three packages to choose from in order to suit their needs or budget. Additional officer time can be purchased at an hourly rate.
- 4.6 Applicants would be under no duty to use the Council's service, as there are a number of consultants and legal firms who also provide a similar offering. Additionally guidance is available on the Council's website where applicants can access information for themselves. However the Council has the advantage of not setting fees to make a profit and the benefit of local knowledge.
- 4.7 The Licensing Service cannot predetermine the outcome of any application submitted but can provide expert advice and highlight any potential issues and advise on how applications may be approached to comply with legal requirements and local Policy.
- 4.8 The three types of Service, with indicative initial costs, proposed are:

1. Application Checking Service

Cost: £26.28

Scope: A pre-submission validation check to ensure there are no errors or omissions that may result in an application being rejected as invalid. Does not include advice on the licensing process, application guidance or a meeting/visit with officers.

Applicants would be provided with a list of deficiencies in their application but no advice as to how these deficiencies could be resolved.

The anticipated turn-around time for this service would be 3 working days.

2. Application Advice Service

Cost: £80.00

Scope: This includes the Application Checking Service and up to an hour of officer time either by telephone or at the Council offices for advice on the licensing process, guidance on forms, plans, conditions, etc. Does not include site visits or input from Environmental Health.

Applicants would receive short written guidance on their application and how it could be submitted to comply with requirements and policy.

Additional Licensing Officer time is charged at £60 per hour payable in advance.

The anticipated turn-around time for this service would be 10 working days.

3. Full Pre-Application Service

Cost: £241.19

Scope: This includes the Application Checking Service and up to 4 hours of officer time, including a site visit / meeting by a licensing officer. For advice where a site visit is essential and for applicants wishing to gain an understanding of potential issues that may arise from their application and consider any appropriate conditions.

Applicants would receive written guidance on their application and how it could be submitted to comply with requirements and policy.

Additional Licensing Officer time is charged at £60 per hour payable in advance.

Additional Environmental Health Officer time to offer specialist advice on either public nuisance or public safety elements of an application is charged at £75 per hour, payable in advance.

The anticipated turn-around time for this service would be 15 working days.

4.9 The Licensing Service handles over 2500 applications per year. Most of these are relatively 'straightforward' (i.e. taxi renewal, personal licence, TENS, vary DPS, charity collection) applications where only limited time is required by way of pre-application advice.

4.10 The service does however deal with approximately 60 new or variation applications under the Licensing Act 2003 per year where often considerable officer time is spent advising and assisting applicants. Applicants currently only pay the statutory fee and as such the cost of officer time spent on advising applicants cannot be recovered.

5. Consultation

5.1 It is considered essential that the new charging regime is well advertised, with a reasonable lead in period. There are several methods that we consider necessary to achieve this.

- To advertise the changes at least 6-8 weeks before they are introduced. This would be by notices in reception, information on our website, and at

Pubwatch/Experience Guildford meetings. A press release and article in About Guildford and By the Wey could also be circulated.

- All staff would be given instructions on the new charging regime so that they are aware.

6. Equality and Diversity Implications

- 6.1 Under the general equality duty as set out in the Equality Act 2010, public authorities are required to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as advancing equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not.
- 6.2 The protected grounds covered by the equality duty are: age, disability, sex, gender reassignment, pregnancy and maternity, race, religion or belief, and sexual orientation. The equality duty also covers marriage and civil partnership, but only in respect of eliminating unlawful discrimination.
- 6.3 The law requires that this duty to have due regard be demonstrated in decision making processes. Assessing the potential impact on equality of proposed changes to policies, procedures and practices is one of the key ways in which public authorities can demonstrate that they have had due regard to the aims of the equality duty.
- 6.4 The pre-application advice service would be offered on a without prejudice basis and any charging applying to all prospective applicants. There is no obligation for applicants to utilise the Council's service as all Licensing applications are determined in line with the relevant legislation and the Council's Licensing Policy.

7. Financial Implications

- 7.1 The implementations can be managed through the existing licensing budget.
- 7.2 Introduction of charges for pre application licensing advice presents an opportunity to recoup some of the costs associated with undertaking pre-application discussions with potential applicants, and to offset some of the costs of the licensing process.
- 7.3 It will be necessary to ensure that a profit is not made from the charges made (in the same way as a profit must not be made from licence fees). A similar accounting procedure as applies to fees for licences must therefore be put in place so that any surplus or deficit can be carried forward in subsequent years.
- 7.4 The Service currently receives 60 new or variation applications per year. Most applicants require some assistance and while some use established legal firms, others rely on the expertise of officers. It is estimated that the application advice services proposed may be used by half of the applicants who currently utilise the advice of officers, and as such it is estimated that over £2,400 of income could be generated.

Service	Number	Cost	Total
Application checking	15	£26.28	£394.13
Application advice	10	£80.00	£800.04
Full pre-application	5	£241.19	£1,205.95
TOTAL			£2400.12

8. Legal Implications

8.1 The Council has a legal duty to consider applications submitted to it in line with the appropriate legislation. The Council however does not have to provide advice to applicants in order to assist them through the application process, however it is good practice to do so.

8.2 The introduction of charges for pre-application advice is permitted under Section 93 of Local Government Act 2003. This power was introduced to allow local authorities to charge for discretionary activities – those services that a local authority has the power to provide, but is not obliged to and cannot otherwise charge for. The customer must expressly agree to the service and the charge.

9. Human Resource Implications

9.1 It is considered that there is capacity as the Licensing Service would be charging applicants for time which is already spent in offering this advice free of charge.

10. Recommendation

10.1 To agree to introduce pre application advice charging from 1 April 2020 for Licensing applications under the following legislation:

- Animal Activities
- Charitable Collections
- Gambling Act 2005
- Licensing Act 2003
- Taxi and Private Hire
- Street Trading
- Sexual Entertainment Venues

And to agree to the charging model suggested in this report.

11. Conclusion

11.1 Approving a charging scheme for licensing advice will allow the Council to increase income for activities which are not currently charged for in line with the Future Guildford strategy.

12. Background Papers

12.1 There are no background papers to this report.

13. Appendices

Appendix A – Calculations for proposed fees.

14. Consultation

Service	Sign off date
Finance / 151 Officer	<i>22 October 2019</i>
Legal / Governance	<i>16 October 2019</i>
HR	<i>25 October 2019</i>
Equalities	<i>25 October 2019</i>
Lead Councillor	<i>09 October 2019</i>
CMT	<i>22 October 2019</i>
Committee Services	<i>14 October 2019</i>