



City of Westminster

Committee Agenda

Title: **Licensing Committee**

Meeting Date: **Wednesday 18th November, 2015**

Time: **10.00 am**

Venue: **Rooms 5, 6 and 7, 17th Floor, City Hall, 64 Victoria Street, London SW1E 6QP**

Members: **Councillors:**

Nickie Aiken (Chairman)	Murad Gassanly
Heather Acton	Angela Harvey
Rita Begum	Louise Hyams
Susie Burbridge	Tim Mitchell
Melvyn Caplan	Jan Prendergast
Nick Evans	Shamim Talukder
Jean Paul Floru	Aziz Toki
Peter Freeman	

Members of the public are welcome to attend the meeting and listen to the discussion Part 1 of the Agenda

Admission to the public gallery is by ticket, issued from the ground floor reception at City Hall from 9.00am. If you have a disability and require any special assistance please contact the Committee Officer (details listed below) in advance of the meeting.



An Induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact the Committee Officer, Jonathan Deacon.

**Email: jdeacon@westminster.gov.uk Tel: 020 7641 2783
Corporate Website: www.westminster.gov.uk**

Note for Members: Members are reminded that Officer contacts are shown at the end of each report and Members are welcome to raise questions in advance of the meeting. With regard to item 1, guidance on declarations of interests is included in the Code of Governance; if Members and Officers have any particular questions they should contact the Head of Legal & Democratic Services in advance of the meeting please.

AGENDA

PART 1 (IN PUBLIC)

1. DECLARATIONS OF INTEREST

To receive any declarations by Members and Officers of any personal or prejudicial interests in matters on this agenda.

2. MINUTES

To approve the minutes of the meeting held on Wednesday 15 July 2015.

(Pages 1 - 8)

3. TRAINING FOR MEMBERS

Report of the Head of Committee and Governance Services.

(Pages 9 - 10)

4. LICENSING FEES REVIEW 2016/2017

Report of the Operational Director for Premises Management.

(Pages 11 - 26)

5. UPDATE IN STATEMENT OF LICENSING PRINCIPLES FOR GAMBLING DEVELOPMENT

Report of the Operational Director for Premises Management.

(Pages 27 - 32)

6. LICENSING APPEALS

Report of the Litigation Appeals Manager – to follow.

7. ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

8. FUTURE LICENSING COMMITTEE MEETING DATES

9 March 2016, 6 July 2016 and 30 November 2016.

Charlie Parker
Chief Executive
13 November 2015



City of Westminster

Minutes

Meeting:

Licensing Committee

Time and date of meeting:

**10:00 hours on Wednesday 15 July 2015 at City Hall,
64 Victoria Street, London, SW1E 6QP**

Attendees:

Councillors:

- Nickie Aiken (Chairman)**
- Heather Acton**
- Susie Burbridge**
- Melvyn Caplan**
- Nick Evans**
- Jean-Paul Floru**
- Peter Freeman**
- Murad Gassanly**
- Angela Harvey**
- Tim Mitchell**
- Shamim Talukder**
- Aziz Toki**

Apologies:

Councillors Rita Begum, Louise Hyams and Jan Prendergast.

Contact:

**Jonathan Deacon
Senior Committee and Governance Officer**

Details:

**Tel: 020 7641 2783
Email: jdeacon@westminster.gov.uk**

1. MATTERS ARISING

- 1.1 The Committee paid tribute to Councillor Audrey Lewis, who had sadly died the weekend prior to the meeting. The Chairman referred to the fact that Councillor Lewis had been an outstanding Chairman of the Licensing Committee, holding the position from 2004 until she became Lord Mayor in June 2014. Included amongst her many achievements were that she had led the Licensing Service through the transition period and implementation of the Licensing Act. She had also played a leading role in the development of the Council's licensing policies which have assisted all parties in terms of clarity at Sub-Committee meetings and provided a solid foundation for defending the Sub-Committee's decisions in the appeal courts. She had continued to provide excellent advice to Members and officers alike. The Committee observed a minute's silence in memory of Councillor Lewis.
- 1.2 Councillor Murad Gassanly was welcomed as a new Member of the Licensing Committee, having formally been appointed at the Council meeting on 8 July.

2. MEMBERSHIP

- 2.1 Apologies for absence were received from Councillors Rita Begum, Louise Hyams and Jan Prendergast.

3. DECLARATIONS OF INTEREST

- 3.1 There were no declarations of interest.

4. MINUTES

- 4.1 The minutes of the Licensing Committee meeting held on 11 March 2015 were agreed as a correct record and were signed by the Chairman.

5. ESTABLISHMENT OF A POOL OF MODEL CONDITIONS FOR GAMBLING PREMISES

- 5.1 Kerry Simpkin, Licensing Team Manager, introduced the report. It was proposed to establish a pool of model conditions for gambling premises under the Gambling Act 2005 which would mirror the approach taken for Licensing Act 2003 premises licences. These had been drawn up from existing conditions already in place on gambling premises within Westminster, from a list of conditions that the Gambling Commission has pulled together from other local authorities as best practice and also conditions officers had developed themselves to address specific issues that had been raised. These conditions would be in addition to the mandatory and default conditions specified in the Gambling Act. It would be useful to all parties involved at

hearings to have a standardised wording for conditions that were appropriate to specific circumstances. Mr Simpkin added that he wished to amend the recommendation in the report. He suggested that this should be that the Committee is recommended to approve the establishment of the pool of model conditions for gambling premises as set out in Appendix A of this report and to authorise the operational Director to update and amend the model conditions as and when it is appropriate to do so.

- 5.2 Councillor Mitchell commented that this was a direction of travel that the Sub-Committee had been moving in for some time. He made the point that the list of model conditions used in relation to the Licensing Act 2003 was a very useful tool at Sub-Committee meetings. He requested that the proposed recommendation was tweaked so that the operational Director would consult the Cabinet Member for Public Protection (with licensing as part of the portfolio) prior to updating and amending the model conditions.
- 5.3 Members raised a number of matters regarding the specific conditions for gambling premises. Councillor Evans asked whether there were any 'betting tracks' in Westminster which was referred to in the mandatory conditions. Mr Simpkin replied that Lords Cricket Ground did qualify as a 'betting track' which was the case for all sports stadia. Councillor Caplan stated that he had a real difficulty with ATM facilities being physically located in a betting shop. There needed to be a view taken at Central Government level about how this could be addressed. Mr Simpkin advised that ATM facilities were permitted within betting shop premises but there was a mandatory condition that they would be located in a place that requires any customer who wishes to use them to cease gambling in order to do so. Model condition 75 was being proposed that there would be 'no cash point or ATM facilities on the premises' and could be imposed should Members of the Sub-Committee decide that there was evidence of vulnerable people at the location of the gambling premises where an application was being considered. Councillor Evans made the point that in certain cases if there were ATM facilities outside premises there were potential issues with muggings. He expressed the view that it was a matter of judgement where ATMs should be positioned depending on the area where the betting shop was located. Councillor Burbridge asked about the significance of the proposed model condition 40. Mr Simpkin explained that 'spit kits' were DNA sampling kits in the event that staff were spat at and there would be an onus on the licensee, if the condition was imposed, to provide them within the premises and provide staff training on the use of the kits. This would potentially be trialled in Westminster.
- 5.4 Mr Simpkin stated that on the advice of Chris Wroe, Licensing Policy and Strategy Manager, he was suggesting that the model conditions were hence forward known as gambling model conditions or 'GMCs' to distinguish them from the model conditions used under the Licensing Act. The Committee agreed this was a good idea. Mr Wroe also suggested that it would perhaps be more appropriate for the operational Director to consult with the Chairman of the Licensing Committee when updating and amending the model conditions as the application of the conditions were a committee function. It was decided by the Committee that the operational Director would consult

both the Licensing Committee Chairman and the Cabinet Member for Public Protection (both roles currently held by Councillor Aiken). The Chairman stated that introducing the model conditions at this time was particularly useful ahead of the gambling policy review.

- 5.5 **RESOLVED:** (i) That the establishment of the pool of model conditions for gambling premises as set out in Appendix A of this report be approved; and,
- (ii) That the updating and amendment of the model conditions be delegated to the Director of Public Protection and Licensing in consultation with the Licensing Committee Chairman and Cabinet Member for Public Protection.

6. REVIEW OF LICENSING ACT 2003 NEW AND VARIATION APPLICATION LICENSING SUB-COMMITTEE REPORT FORMAT

- 6.1 Mr Simpkin introduced the report. At the previous Licensing Committee meeting in March 2015, Members had approved that there would be a trialling of new report formats for Licensing Sub-Committee meetings. The formats would seek to eliminate unnecessary documentation whilst providing the relevant information within the main text of the report itself. Four different report formats were produced for Sub-Committee meetings in May and June and these were included in the papers for the current meeting. Mr Simpkin stated that he wished to amend the recommendation in the report. He was requesting that Members of the Sub-Committee provide feedback on the different report formats and indicate if they have a preferred option so as to enable a final view to be taken by the Operational Director in consultation with the Chairman. He also added that it had also been resolved at the meeting in March that officers would develop a new guidance and rules document as part of the Rules of Procedure for Licensing Sub-Committee hearings and it was intended that this would be available at the next meeting in November 2015.
- 6.2 Members commented on the four report formats. Councillor Harvey expressed the view that all four report formats were an improvement in terms of clarity over the existing report format. She believed that the fourth example included in Appendix A4 of the report appeared to be the best of these. Councillor Acton also expressed the view that the fourth example included the best aspects of the existing report format and was more comprehensive in terms of clarity than the other three examples. Councillor Caplan added that the fourth example explained what was involved with the application and set out well the comments of those who had made representations. If the correct level of clarity was provided in the report, then there was less need for the applicants' representatives to describe applications in detail at Sub-Committee meetings.
- 6.3 Councillor Burbridge made the point that the reports needed to provide some explanation at the beginning as to what it was Members were required to determine. This had on occasion not been clear, at least until much of the report had been read. An emphasis was required on any changes that had taken place since the original application had been submitted. Mr Simpkin

stated that it would be possible to include a couple of paragraphs at the beginning of the reports to explain exactly what was being applied for and if there had been any changes since the original application. There were often amendments to the application after the reports were published. Councillor Mitchell stated that it was useful for the licensing officers to explain any amendments at the Sub-Committee hearings in the event of late information received after reports were published. The Chairman commented that the case officers were very familiar with the applications that reached the Sub-Committee hearings and could provide this additional information. There was scope for expanding their role. Councillor Evans expressed the view that if a glossary of abbreviations was provided to those who submitted applications or made representations, it was unnecessary to duplicate the same terms in reports including 'Licensing Sub-Committee'.

- 6.4 Councillor Talukder asked whether it was possible to limit the level of e-mails and documents which were received the day prior to Sub-Committee meetings. Barry Panto, Senior Assistant Solicitor, replied that the Rules of Procedure had been amended by the Licensing Committee in 2014 so that parties involved with an application would be expected to provide any additional information received after the published report by midday on Monday prior to the Thursday Sub-Committee meeting. It was also the case that information could not be presented at the hearing itself without the consent of other parties. It was in the discretion of Members whether information was presented to the Sub-Committee at a late stage prior to a hearing. The Licensing Act did not exclude the potential for information to be received in the twenty four hours or so leading up to a hearing. On a number of occasions it did assist the Sub-Committee if late information was received where issues were resolved between the parties involved with the application. It could be the case in these instances that the applicant's legal representative would take longer to explain an application if there was a rule in place which prevented him or her from being able to submit a document which would have clarified the situation. Members of the Sub-Committee always had the option to question why evidence was being presented at a late stage and if an adequate response was not given, they could decide that they would not have regard to it.
- 6.5 Councillor Harvey queried whether, if the deadline for information received after the report was noon on Monday, it was possible to have the information couriered to Members of the Sub-Committee before Wednesday evening. She also requested larger and colour copies of plans for applications. Mr Simpkin stated that there was the potential for including better plans in reports, potentially in A3 size and folded. Councillor Mitchell made the point that there was an issue that if papers were sent straight after the Monday lunchtime deadline, the committee officer would then potentially have to send further updates by post on the evenings prior to the Thursday meeting. With the current receipt of additional papers in the Members' Despatch on the Wednesday evening, the papers were received by Members in one bundle. Councillor Caplan added that the papers were forwarded by the committee officer electronically once he had received them and this was useful.

- 6.6 Following a suggestion by the Chairman and having received feedback from Members on the different report formats, it was agreed that the Licensing Service would produce a report in the style of option four (Appendix A4 of the report) with requested improvements. The Chairman would discuss the revised report with the other Licensing Sub-Committee Chairmen prior to a final decision being made, in consultation with the Director of Public Protection and Licensing.
- 6.7 **RESOLVED:** (i) That having received feedback from Members on the different report formats, the Licensing Service be required to produce a report in the style of option four (Appendix A4 of the report) with requested improvements; and,
- (ii) That the Chairman discuss with the other Licensing Sub-Committee Chairmen the updated option four report prior to a final decision being made in consultation with the Director of Public Protection and Licensing.

7. LICENSING APPEALS

- 7.1 The Committee received a report providing information in respect of the appeals that had been submitted in response to decisions taken by the Council. Hayley Davies, Litigation Appeals Manager, advised Members that two decisions of the Licensing Sub-Committee had been appealed and were listed for a full hearing in the Magistrates' Court. One was 8-10 Hill Street scheduled for 12 – 14 October 2015 and the other was Bow Street Hotel, 28 Bow Street which was scheduled for 2-6 November 2015. An appeal in respect of ME Hotel, 335 Strand had now been withdrawn by the Appellant. An appeal had also been withdrawn by Mr Gawdat George against the decision by the Licensing Officer Panel to revoke his licence for trading at Pitches 611, 612 and 613 in Church Street Market.
- 7.2 Ms Davies also referred to the sex establishment licensing fees case that had been heard in the Supreme Court on 13 January 2015. Judgment was delivered on 29 April and subject to one point which the Court had referred to the European Court of Justice, the City Council was successful. It was expected to be approximately twelve to eighteen months before a response was given by the European Court of Justice to the question put to them.
- 7.3 Ms Davies clarified in response to a question from Councillor Talukder that 460 appeals had been heard, settled or withdrawn (16 allowed, 11 allowed only in part, 56 dismissed, 212 withdrawn and 165 settled) since the implementation of the Licensing Act 2003. Councillor Floru asked whether it was possible to see a graph with the details of the appeals on a year by year basis. Ms Davies replied that she would be able to provide the Committee with this information.
- 7.4 **RESOLVED:** (i) That the Committee be provided with a graph with the details of the appeals on a year by year basis since the implementation of the Licensing Act 2003; and,

(ii) That the contents of the report be noted.

8. ANY OTHER BUSINESS WHICH THE CHAIRMAN CONSIDERS URGENT

- 8.1 The Committee welcomed Heidi Titcombe to the meeting. Ms Titcombe's role is Principal Solicitor and Manager (Planning, Highways and Licensing Team) following a shared legal services department being formed as part of the Tri-borough working arrangements.
- 8.2 The Chairman informed the Committee that there had been a meeting of Members and officers to discuss the statement of licensing policy review. The consultation responses received had been carefully considered and a direction of travel agreed. Mr Wroe added that it was intended that approval for the revised statement of licensing policy document would be sought from Council at the November 2015 meeting.
- 8.3 The Chairman stated that the current position regarding the Police sergeant and constable in the Westminster Police Licensing Team who had been arrested was that no charges had yet been brought against them. It was expected to be a long investigation. She had been advised that no licensing officers were suspected of conspiracy to commit misconduct in public office as part of the investigation.
- 8.4 The Chairman advised the Committee that she was introducing a dress code for Members and officers at Licensing Committee and Licensing Sub-Committee meetings. This assisted in demonstrating that the meetings were being conducted in a professional manner and that the meetings and those who attended were being treated with the necessary respect. She added that she would expect men to wear jackets and ties and women to wear suits. The Chairmen of the Licensing Sub-Committee meetings had the option to excuse a Member or officer should they feel that they were not suitably attired.
- 8.5 The Chairman referred to the fact that Councillor Burbridge had asked a question regarding City Inspectors at the meeting of Council the previous week. She advised Members that following the reorganisation process, there were 45 City Inspectors working at all times in the West End. They were not simply licensing inspectors but were involved, as part of their remit, in licensing matters. City Inspectors included those who had previously been wardens and those who had been licensing inspectors. David Hine, Acting Service Manager, added that following the restructuring, there were 6 City Inspectors who had previously been licensing inspectors working in the West End City Co-ordination Team. For the first three months, the six officers had been training their new colleagues on licensing matters. That process was now complete. There were currently 13 vacancies across the City Inspector teams, taking account of those in the West End teams and those attached to the residential and commercial teams. There was a second round of recruitment being undertaken during the current week. Once this was completed, the programme of inspections would be fully up to speed. There

would be greater flexibility than previously as the City Inspectors would be working to a rota which covered every day and night of the week. The licensing inspectors had predominantly worked Thursday, Friday and Saturday nights. Councillor Burbridge expressed some concerns that the licensing inspectors who had left had built up working relationships over a number of years with licensed premises. She sought confirmation that the training given to the City Inspectors was comprehensive. The Chairman assured her that the training had been very robust and that she had been involved with the process. The new regime would be of benefit to the running of the West End with City Inspectors operating seven nights a week rather than Thursday, Friday and Saturday nights. The feedback she was receiving was that the new City Inspectors had hit the ground running. They did need to gain experience but this was being gained on the job and they were working with knowledgeable and experienced former licensing inspectors. Councillor Acton asked Mr Hine whether other areas away from West End such as Edgware Road were being adequately covered by the City Inspectors. Mr Hine confirmed that they would operate effectively throughout the borough.

9. FUTURE LICENSING COMMITTEE MEETING DATES

- 9.1 It was noted that the next meetings of the Licensing Committee would be held on Wednesday 18 November 2015 and Wednesday 9 March 2016. Both meetings are scheduled for 10.00am.

10. CLOSE OF MEETING

- 10.1 The meeting ended at 10.53am.

Chairman

Date



City of Westminster

Licensing Committee

Date:	18TH November 2015
Classification:	General Release
Title:	Training for Members
Report of:	Mick Steward, Head of Committee and Governance Services
Financial Summary:	There are no financial implications
Report Author and Contact Details:	Mick Steward, Head of Committee and Governance Services Tel: 7641 3134; Email: msteward@westminster.gov.uk

1. Executive Summary

- 1.1 At its meeting on 9 July 2015 the Standards Committee agreed that Members on all of the Council's quasi-judicial bodies should undergo some refresher training. As the Licensing Sub-Committees carry out quasi-judicial functions the wish of the Standards Committee is being reported.
- 1.2 Amongst the duties of the Standards Committee is to promote and maintain high standards of conduct by Members (and co-opted members) of the City Council.

2. Recommendation

- 2.1 That a training session, as outlined below be held at the conclusion of the Licensing Committee on Wednesday 9 March 2016.

3. Background Information

- 3.1 Prior to being able to sit on a Licensing Sub-Committee it is a policy previously agreed by the Licensing Committee that all members are trained in the working of the licensing processes. Given in general the continuity of members on the Licensing Committee it has not been necessary to hold a plenary training session for all Licensing Committee members for some time.

- 3.2 Notwithstanding the views of the Standards Committee, given the adoption by the Council of revised Licensing and Gambling policies, it is thought timely to have a plenary training session for all Members of the Licensing Committee.
- 3.3 The session is subject to approval by the Licensing Committee planned for Wednesday 9 March 2016 at the conclusion of the Licensing Committee programmed for that day.
- 3.4 Members are asked to endorse the proposals set out in this report.

4. Legal Implications

- 4.1 Licensing Committee decision making must be robust. Poor or ill-informed decision making results in expensive challenges that cannot easily be defended. The Licensing Act 2003 restricts the number of Councillors permitted to be Members of the Licensing Committee at any one time to at least ten but not more than fifteen Members of the authority in recognition of the fact that these members need to be carefully trained on the often complex procedures and law involved.

5. Finance Implications

- 5.1 The cost of the training will be met from within existing resources and undertaken by Council Officers.

6. Other Implications – None.

**If you have any questions about this report, or wish to inspect one of the background papers, please contact Mick Steward, Head of Committee and Governance Services, Tel: 7641 3134;
Email: msteward@westminster.gov.uk:**



City of Westminster

Licensing Committee Report

Meeting:	<i>Licensing Committee</i>
Date:	<i>18th November 2015</i>
Classification:	<i>For General Release</i>
Title:	<i>Licensing Fees Review 2016/2017</i>
Wards Affected:	<i>All</i>
Financial Summary:	<i>This report sets out the fee strategy for the licensing regimes where the authority can set a fee to attempt to recover its own costs. The proposed fees will enable the authority to recover the majority of its costs for 2016/17.</i>
Report of:	<i>Operational Director for Premises Management</i>

1. Executive Summary

- 1.1 The report sets out the proposed fees for those licensing regimes where the Council has the power to set its own fees for 2016/17. It also proposing two new surcharges for applications submitted with a cheque and for special treatment late renewals.

2. Recommendations

- 2.1 That:
- 2.1.1 the proposed fees attached to this report as Appendix 1 save for the lower risk Massage and Special Treatment premises licence renewal fee, be approved commencing 1st January 2016.
 - 2.1.2 the proposed surcharge for paying the licence fee by cheque, as set out in paragraph 6.2 below and shown on Appendix 1 be approved.

- 2.1.3 the Committee approve one of the proposed options for the increase in the lower risk Special Treatment Premises Licence renewal fee as set out in paragraph 8.5 of this report.
- 2.1.4 the Committee approve the proposed surcharge for late renewals of special treatment premises licences as set out in paragraph 9 of this report.
- 2.1.5 the Committee note the need for further lobbying on amending the relevant regulations under the Licensing Act 2003 and Gambling Act 2005, as set out in paragraph 11.5 to enable the council to recover its reasonable costs in carrying out its functions under the Acts.

3. Reasons for Decision

- 3.1 The proposed fees, attached to this report as Appendix 1 will enable to the council to recover its reasonable costs in processing and determining applications and ensuring compliance with the appropriate legislation and the conditions of the licence.

4. Background

- 4.1 The majority of the licensing fees were reviewed in the early part of 2015, except Sex Establishments, Special Treatment Premises Licences and Marriage approvals. The Committee agreed the proposed fees following that review on the 11th March 2015. At the time Sex Establishments, Massage and Special Treatment premises licences and Marriage Approval fees were not set and it was agreed at that meeting that the current fees would remain in effect until a review was undertaken on the fees for those regimes at a later date.
- 4.2 The Council undertook a major restructure in the first quarter of 2015 which has resulted in a new structure for Public Protection and Licensing. This new structure has meant that officers have had to re-evaluate the process in which we have set our fees over the past few years. This evaluation resulted in a new fee process which takes into account the new Public Protection and Licensing structure and the changes to personnel and costs.

5. Fee Methodology

- 5.1 The fees are calculated by assessing the time it takes for each step in the process from receipt of application to determination. This will include the time taken by internal consultees, such as the Environmental Health Consultation Team. We have also identified the perceived cost for the compliance and enforcement function carried out by the City Inspectors. The time has been assigned to different roles and the costs based on hourly rates. There is also a proportion attributed to these fees for management time which will include the costs associated with running the Department and Services involved with delivering a function associated with one or more licensing regimes. The fees have then been established by calculating the cost associated with each of the licensing functions.
- 5.2 In calculating these fees officers have taken into account the requirements under the EU Service Directive and the Supreme Courts rulings in the Hemming case. Further information relating to this case is detailed within paragraphs 7.3 and 7.4 below.
- 5.3 Although the Council has not received any applications or issued any licences for some regimes it still must set a fee to recover the costs of carrying out that function. In the cases where the Council has not processed any applications or

issued licences the costs have been estimated based on similar types of application process and licences.

6. Cheque Payment Surcharge

- 6.1 Due to the costs in processing cheques it is proposed to charge a supplement for all applications that are made with a cheque payment. The supplement will cover the cost in processing these cheques which is not applicable to fees paid via online payment or over the telephone.
- 6.2 The proposed cheque supplement will be £20.40 per application. However, this will not apply to gambling applications where the fee has already reached the cap. The proposed fee levels with this supplement are provided within Appendix 1 to this report.

7. Sex Establishments

- 7.1 The Council is responsible for licensing premises as sex establishments under the provisions of the Local Government (Miscellaneous Provisions) Act 1982. There are four categories of sex establishments that applicants can apply for. These are:
 - 7.1.1 a sex shop, selling sex articles such as toys or DVD's,
 - 7.1.2 a sex cinema, which shows restricted 18 category films,
 - 7.1.3 a hostess bar, where female company (non-sexual) is provided to customers, or
 - 7.1.4 a sexual entertainment venue, which provides sexual entertainment such as strip tease, table dancing and live sex shows.
- 7.2 Illegal sex shops in and around Soho have been a particular problem for many years and the Council has put a great deal of resources in reducing the illegal premises through enforcement action.
- 7.3 The costs associated with this work were incorporated into the licences fees up until June 2013. It was removed following the outcome of a judicial review that was led by Mr Hemming and supported by the majority of licensed sex shop operators. The removal of the enforcement costs, which represented the vast proportion of the fee level, was because the fee was not deemed to be compliant with the EU Directive relating to the Provision of Services.
- 7.4 The Council appealed that decision to the Supreme Court which ruled in April 2015 that the Council could charge for enforcement against illegal operators but that to do so the fee for that enforcement would need to be charged once the

licence was determined and prior to issue. In effect the fee for sex establishments will be broken down into two parts, the authorisation procedure and enforcement. An applicant for the grant or renewal of the relevant category of sex establishment will pay the authorisation procedure fee upon application. Once the application has been processed and the licence is granted the enforcement costs will be payable before the licence is issued.

Fee	Type	Authorisation Procedure	Enforcement costs	Total charge following grant of the licence
Sex Shops/Cinemas/ Hostess Bars	New	£1,928.53	£2,262	£4,190.53
	Renewal	£1,026.40	£2,262	£3,288.40
	Variation	£1,010.91	£0	£1,010.91
	Transfer	£311.39	£0	£311.39
	Para 7 waiver	£679.61	£0	£679.61
Sexual Entertainment Venues	New	£1,609.96	£2,262	£3,871.96
	Renewal	£608.79	£2,592	£3,200.79
	Variation	£1,036.94	£0	£1,036.94
	Transfer	£281.15	£0	£281.15
	Para 7 waiver	£664.03	£0	£664.03

- 7.5 The council now only has three unlicensed sex shops within Westminster. This has meant that the enforcement costs have reduced significantly due to the good work in closing down illegal operators in and around Soho. The new fees have also taken into account the new operating model for the City Inspectors and the changes to the licensing team which has created addition efficiencies. As a result there has been a reduction in the overall fee amount payable for sexual entertainment venues. However, there will be an increase for sex shops, cinemas and hostess bars as a result of the addition of the enforcement costs.
- 7.6 The proposed fee for the variation of a sex shop, cinema or hostess bar licence has been increased by 306% from £249 to £1,010.91. The current £249 did not cover the costs involved in processing and determining these applications that often end up being determined by the licensing Sub-Committee. The proposed new fee will enable the council to recover its costs associated with these applications.
- 7.7 Applicants for the grant or renewal will not be able to pay both elements upon application. If a payment is made for either the authorisation procedure or the enforcement costs via cheque then the proposed £20.40 cheque payment surcharge will be applicable for both parts.

8. Special Treatment Premises Licences

- 8.1 Operators who provide special treatments are often small to medium business. They will provide a number of different kinds of treatments, ranging from manicures and ear-piercing to laser and sunbed treatments. There are two types of licences defined by the council as higher and lower risk. These relate to the types of treatment that are provided on the premises and the assessment and compliance work that is required associated with that risk. Higher risk treatments are defined as those that break the skin, can cause serious injury or disfigurement, or due to contact with bodily fluids there is an increased risk that the customer or treatment provider can contract an infection or infectious diseases. These licences are renewed yearly through an application process.
- 8.2 It has been identified that the Council has not been recovering its costs relating to the special treatment regime for a number of years. These fees have not been changed since 2012/13. The reasons for this were due to the Hemming case and officers awaiting its outcome before considering amending the current fee amount.
- 8.3 The proposed fees for Special Treatment Premises Licences are increasing. For premises that offer lower risk treatments the increase is significant. The proposed fee for 2016/17 is set out in Appendix 1.
- 8.4 Due to the nature of these businesses and that some of these increases will be considerable in one year officers are proposing that the Committee consider which fee increase option may be more suitable for lower risk special treatment renewals.
- 8.5 The proposals set out in the table below which only relate to lower risk special treatment premises licence renewal set out the options available for the Committee to recover these costs. There are four proposals to consider which will either require the total fee to be recovered in 2016/17 or over a period of years up to 4 years. The current fee for these renewals is £1017.

	Fee per year			
Proposal	2016/17	2017/18	2018/19	2019/20
Current	£1858.75			
Proposal 1 (Appendix 1)	£1858.75 (83% increase)			
Proposal 2	£1438 (41% increase)	Additional £421 to any fee set for this year		
Proposal 3	£1332.27 (31% increase)	Additional £263.24 to any fee set for this year	Additional £263.24 to any fee set for this year	
Proposal 4	£1230.57	Additional	Additional	Additional

	(21% increase)	£209.49 to any fee set for this year	£209.47 to any fee set for this year	£209.47 to any fee set for this year
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- 8.6 Proposal one will ensure that this regime is cost neutral in 2016/17. If the Committee decide to opt for options 2, 3 or 4 then this regime will not achieve cost neutrality until the year when the costs for 2016/17 is finally recovered. This would mean that the council would have a shortfall in projected income in future years.
- 8.7 Officers have put forward the proposals in 8.5 above to enable the Committee to consider the need for cost neutrality with the potential financial impact on the small and medium businesses that hold a licence. The proposals would reduce the burden on these licensees by spreading the increase in the fee over a number of years. However, there is also a risk by spreading the costs over a number of years this could exacerbate further financial burdens on those businesses if fees also increase in those years.
- 8.8 If the Committee does decide to opt for options 2, 3 or 4 then officers would monitor this and factor in any potential shortfall into future fee reviews.

9. Special Treatment Premises Licence Late Renewal Surcharge

- 9.1 Each year there is a number of Special Treatment Premises Licence holders that fail to renew their licence. This can be as a result of an oversight on the licensee's part or that they did not receive the reminder letters for one reason or another. The London Local Authorities Act 1991, which governs this licensing regime, requires that once a licence has lapsed a new application is required. However, the fee involved for a new licence is significant and includes inspections and assessment that would not be necessary as the premises has already been licensed.
- 9.2 Officers are proposing to provide a new surcharge fee for special treatment premises licence holders who fail to renew their licence within one month of the licence lapsing. This surcharge fee will be added onto the renewal fee amount and will cover the addition 30 minutes of a Senior Licensing Officers time in dealing with the late renewal. The surcharge fee will be £40.79.
- 9.3 The Licensing Service do issue renewal reminder letters prior to expiry of a Special Treatment Premises Licence. However, small operators often fail to renew their licences by the date the licence lapses. Rather than charge the full new premises licence fee this surcharge will enable these operators to apply and continue to trade with minimal disruption. If the operator does not apply within one month after the lapse of their licence they will have to cease offering special treatments and apply for a new licence. Operators will be sent a letter following the lapse of the licence advising them of the process to make a late renewal but

also what will be required if they do not apply to renew their licence within the 1 month grace period.

10. Zoo Licence and Sports Ground Safety Certificate Fees

- 10.1 Due to the fee amounts and the proposed increases specified in Appendix 1 for Zoo Licences and Sports Grounds these fees have been highlighted to the Committee for information as they will relate to two large internationally recognised premises within the City, London Zoo and Lords Cricket Ground.
- 10.2 The council is responsible for licensing zoos under the Zoo Licensing Act 1981. The Act provides the power for the local authority to set a reasonable fee as it may determine in respect of the grant, renewal or transfer of the licence. When considering and granting a new zoo application the council will have to inspect the premises with the Council's contracted Animal Health Inspectors, Veterinary Surgeon and Department of Environment, Food and Rural Affairs (DEFRA) Zoo Inspectors. These inspections can take a number of days and also a considerable amount of time assessing the relevant documentation that the zoo are required to have in place to operate. For new licences they will be in force for a period of 4 years and during that time will require an inspection on a yearly basis with one inspection including DEFRA Zoo Inspectors.
- 10.3 Zoo licences are renewable every 6 years following the first four year period after grant. During that period the Act requires a yearly inspection and two inspections which require DEFRA Zoo Inspectors. The Council is required to pay for the DEFRA Inspectors and cover their expenses which are then incorporated within the licence fee. The council will also pay for the contracted specialist Animal Health Inspectors and Veterinary Surgeons from the City of London. There are also the yearly costs in managing the zoo licence and assessing notifications of stock changes, movements and annual stocklists.
- 10.4 Westminster only has one zoo, London Zoo licensed under this Act. The fees, particularly the renewal fee have been established to cover the costs that the council will incur during the period when the licence is in force. The proposed fee as set out in Appendix 1 is based on previous year's costs and the time and resources required to undertake this process. The proposed licence fee for the renewal of London Zoo's licence has increased by 22% to £30,226.92. This fee covers a period of 6 years and equates to an average of £5,037.82 per year.
- 10.5 The council is responsible for issuing the Safety at Sports Ground Certificate for Lords Cricket Ground under the Safety of Sports Grounds Act 1975. Lords is the only prescribed Sports Ground under this Act which is located within Westminster. The council received £4,114 per year from Lords for the maintenance and change of the Sports Ground Certificate.

10.6 Due to the events that take place at Lords Cricket Ground the council regularly attends meetings and advises on safety matters at the ground associated with this certificate, including replacing the safety certificate. In evaluating the resources involved and the time that they spend at the venue the council has established that the current payment is not sufficient to cover its costs. It is proposed to increase the fee from £4,114 to £7,448.92 to enable cost recovery. This represents an 81% increase from the previous fee amount.

11. Statutory Set Fees

11.1 There are other licensing regimes that the council is responsible for which have a statutory set fee. Those regimes are:

11.1.1 The Licensing Act 2003 (in respect of premises and personal licences; and temporary event notices;

11.1.2 The Gambling Act 2005 (in respect of gambling permits, notifications and lotteries);

11.1.3 The Explosives Regulations 2014 (in respect of the manufacture and storage of explosives); and

11.1.4 The Firework Regulations 2004 (in respect of the sale of fireworks outside specified periods).

11.2 The majority of Licensing Act 2003 regime fees were originally set via the Licensing Act 2003 (Fees) Regulations 2005. These fees do not cover the costs associated with the licensing regime. The Council has been running with a deficit since the introduction of this Act and has lobbied DCMS and the Home Office to allow the authority to set its own fees to enable it to recover its reasonable costs.

11.3 The Home Office carried out consultation on the potential for local authorities to set fees locally between the 13th February and 10th April 2014. The council responded to that consultation and also attended a number of workshops that were run by the Home Office at the time on the consultation. On the 25th February 2015 the Home Office published the results of this consultation. Disappointingly the Home Office response was that they had decided not to introduce locally-set fees at the present time. Instead they invited local government to provide evidence of its costs before proceeding. Until such time as the legislation is changed to allow local authorities to set their own fees the Council will continue to run this regime with a deficit year on year. For the 2014/15 financial year the council had a deficit of £1.1 million for the Licensing Act 2003 regime.

11.4 The Gambling Act 2005 maximum fees for gambling premises licences and fees for permits, notifications and lotteries were set in 2007 when the Act came into

effect. Over the years the costs associated with processing to determination applications and compliance costs have increased. The council has proposed to set the majority of the gambling premises fees to the capped amount specified within the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007. The costs for this regime are now exceeding the capped fee amount for some of these applications. In addition the fees for permits, notification and lotteries, which are set in the relevant regulations do not cover the council's costs.

- 11.5 It is proposed that on-going lobbying should be continued with the Home Office (Licensing Act 2003) and the Department for Culture Media and Sport (Gambling Act 2005) to push for a change in the law to allow the council to set its own fees and recover its costs or up the prescribed fees to a level that allows for cost recovery.

12. Financial Implications

- 12.1 The proposed fees have been calculated on a full cost basis which considers both the direct and indirect costs associated with processing, monitoring and enforcing the licenses.
- 12.2 When setting fees there is a statutory requirement to consider the income received for a licensing scheme compared to the overall cost of delivering the scheme. The fee level must be set to not generate income in excess of the cost associated with delivery. Previous years surpluses and deficits have not been included as these are currently being reviewed and will be considered either separately in 2016/17 financial year or within the 2017/18 fee review report
- 12.3 A summary of the financial impacts of the revised fee proposals is set out below:

Licence Type	Projected Income 2016/2017
Other General Licensing	£16,000.00
Special Treatment Premises Licensing	£730,000.00
Gambling Act 2005 Licensing	£170,000.00
Marriage Approvals	£33,000.00
Sex Establishment Licensing	£109,000.00
TOTAL	£1,058,000.00

- 12.4 The projected income of £1,058,000 is based upon estimates of activity levels and the assumption that option one of the proposed fees for lower risk Special Treatment Licences is implemented. Options 2, 3 and 4 will result in a reduction to income and as result we will not be able recover our costs fully in 2016/17.

13. Legal Implications

- 13.1 The Council can set its own fees for the regimes listed in Appendix 1 of this report. The fee must be reasonable and cover the Council's costs in the administration of those application types and further costs to ensure compliance.
- 13.2 All of the regimes (excluding Gambling) are covered by the European Union Services Directive. Regulation 18 of the Provision of Services Regulations 2009 which implements the EU Services Directive into UK law requires that fees charged in relating to authorisations must be proportionate to the effective cost of the process. The proposed fees must recover the council's costs in relation to the licensing process and cannot be used as an economic deterrent or to raise funds. The fees as proposed should enable to Council to recover its reasonable costs.
- 13.3 If the proposed fee structure results in a surplus or loss for the financial year there will be an appropriate reduction or increase in fees as the case may be for the following financial year.

Appendices

Appendix 1 – Proposed 2016/17 fees

If you have any queries about this report or wish to inspect any of the Background Papers please contact: Mr Kerry Simpkin on 020 7641 1840 or email ksimpkin@westminster.gov.uk

BACKGROUND PAPERS

- 2014/15 – Income reports.
- 2015/16 – Budgets.
- 2016/17 – Proposed budgets.
- 2016/17 – Officer Hourly rates including on costs.
- All legislation relating to the licensing regimes referred to within this report.

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**2016/17
Proposed
Licensing Fees**

Current Fee	Modelled Fee	Change in Fee	Statutory Limit (if applicable)	Fee to be set excluding cheque suppliment	Fee to be set including cheque suppliment (if applicable)
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Licence	Type	Current Fee	Modelled Fee	Change in Fee	Statutory Limit (if applicable)	Fee to be set excluding cheque suppliment	Fee to be set including cheque suppliment (if applicable)
Auctions	New	£659	£722.02	£63.02		£722.02	£742.42
Animal Boarding Establishments	New	£612	£905.23	£293.23		£905.23	£925.63
	Renew	£548	£331.80	£-216.20		£331.80	£352.20
	Duplicate	£15	£20.23	£5.23		£20.23	£40.63
Dangerous Wild Animals	New	£612	£1,005.72	£393.72		£1,005.72	£1,026.12
	Renewal	£548	£390.33	£-157.67		£390.33	£410.73
	Duplicate	£15	£20.23	£5.23		£20.23	£40.63
Dog Breeding Establishments	New	£714	£898.49	£184.49		£898.49	£918.89
	Renewal	£481	£346.33	£-134.67		£346.33	£366.73
	Duplicate	£15	£20.23	£5.23		£20.23	£40.63
Exhibitions	New		£797.72	£797.72		£797.72	£818.12
	Renewal		£338.73	£338.73		£338.73	£359.13
	Transfer		£0.00	£0.00		£0.00	£0.00
	Variation		£0.00	£0.00		£0.00	£0.00
Gambling - Casino	Annual Fee	£3,000	£3,130.32	£130.32	£3,000	£3,000.00	
	Variation	£1,755	£2,000.00	£245.00	£2,000	£2,000.00	
	Transfer	£404	£314.39	£-89.61	£1,350	£314.39	£334.79
	Re-installment	£404	£314.39	£-89.61	£1,350	£314.39	£334.79
	Duplicate	£21	£20.23	£-0.77	£25	£20.23	£25.00
	Change of Details	£50	£108.95	£58.95	£50	£50.00	
Bingo Premises	New	£2,571	£3,500.00	£929.00	£3,500	£3,500.00	
	Annual Fee	£600	£1,794.29	£1,194.29	£1,000	£1,000.00	
	Variation	£1,500	£1,750.00	£250.00	£1,750	£1,750.00	
	Transfer	£404	£354.86	£-49.14	£1,200	£354.86	£375.26
	Re-instatement	£404	£354.86	£-49.14	£1,200	£354.86	£375.26
	Provisional Statement	£2,145	£3,500.00	£1,355.00	£3,500	£3,500.00	
	License App	£907	£354.86	£-552.14		£354.86	£375.26
	Duplicate	£21	£20.23	£-0.77	£25	£20.23	£25.00
Change of Details	£50	£101.16	£51.16	£50	£50.00		
Gambling Betting (Other)	New	£2,571	£3,000.00	£429.00	£3,000	£3,000.00	
	Annual Fee	£600	£1,861.25	£1,261.25	£600	£600.00	
	Variation	£1,500	£1,500.00	£0.00	£1,500	£1,500.00	
	Transfer	£404	£354.86	£-49.14	£1,200	£354.86	£375.26
	Reinstatement	£404	£354.86	£-49.14	£1,200	£354.86	£375.26
	Provisional Statement	£2,145	£3,000.00	£855.00	£3,000	£3,000.00	
	License App	£907	£354.86	£-552.14		£354.86	£375.26
	Duplicate	£21	£20.23	£-0.77	£25	£20.23	£25.00

	Change of Details	£50	£108.95	£58.95	£50	£50.00	
Betting Tracks	New	£2,404	£2,500.00	£96.00	£2,500	£2,500.00	
	Annual Fee	£1,000	£1,828.01	£828.01	£1,000	£1,000.00	
	Variation	£1,250	£1,250.00	£0.00	£1,250	£1,250.00	
	Transfer	£404	£354.86	£-49.14	£950	£354.86	£375.26
	Reinstatement	£404	£354.86	£-49.14	£950	£354.86	£375.26
	Provisional Statement	£2,145	£2,500.00	£355.00	£2,500	£2,500.00	
	License App	£907	£354.86	£-552.14		£354.86	£375.26
	Duplicate	£21	£20.23	£-0.77	£25	£20.23	£25.00
	Change of Details	£50	£108.95	£58.95	£50	£50.00	
Family Entertainment Centre	New	£2,000	£2,439.73	£439.73	£2,000	£2,000.00	
	Annual Fee	£750	£1,700.84	£950.84	£750	£750.00	
	Variation	£1,000	£1,000.00	£0.00	£1,000	£1,000.00	
	Transfer	£404	£354.86	£-49.14	£950	£354.86	£375.26
	Reinstatement	£404	£354.86	£-49.14	£950	£354.86	£375.26
	Provisional Statement	£2,000	£2,310.61	£310.61	£2,000	£2,000.00	
	License App	£907	£354.86	£-552.14		£354.86	£375.26
	Duplicate	£21	£20.23	£-0.77	£25	£20.23	£25.00
	Change of Details	£50	£108.95	£58.95	£50	£50.00	
Adult Gaming Centre	New	£2,000	£2,439.73	£439.73	£2,000	£2,000.00	
	Annual Fee	£1,000	£1,700.84	£700.84	£1,000	£1,000.00	
	Variation	£1,000	£1,000.00	£0.00	£1,000	£1,000.00	
	Transfer	£404	£354.86	£-49.14	£1,200	£354.86	£375.26
	Reinstatement	£404	£354.86	£-49.14	£1,200	£354.86	£375.26
	Provisional Statement	£2,000	£2,310.61	£310.61	£2,000	£2,000.00	
	License App	£907	£557.18	£-349.82		£557.18	£577.58
	Duplicate	£21	£20.23	£-0.77	£25	£20.23	£25.00
	Change of Details	£50	£108.95	£58.95	£50	£50.00	
Marriage	New	£912	£800.48	£-111.52		£800.48	£820.88
	Renewal	£661	£541.48	£-119.52		£541.48	£561.88
	Change of Resp. person	£71	£76.27	£5.27		£76.27	£96.67
	Amend App	£661	£293.12	£-367.88		£293.12	£313.52
	Change of Details	£120	£116.73	£-3.27		£116.73	£137.13
	Duplicate	£18	£20.23	£2.23		£20.23	£40.63
Performing Animals	New	£324	£433.81	£109.81		£433.81	£454.21
	Variation	£260	£337.31	£77.31		£337.31	£357.71
	Inspection			£0.00		£0.00	£0.00
	Copy of Register	£7	£6.74	£-0.26		£6.74	£27.14
	Duplicate	£15	£20.23	£5.23		£20.23	£40.63
Pet Shops	New	£673	£992.90	£319.90		£992.90	£1,013.30
	Renewal	£481	£393.54	£-87.46		£393.54	£413.94
	Duplicate	£15	£20.23	£5.23		£20.23	£40.63
Poisons	New	£85	£76.27	£-8.73		£76.27	£96.67
	Renewal	£64	£76.27	£12.27		£76.27	£96.67
	Variation	£64	£76.27	£12.27		£76.27	£96.67
Riding Establishments	New	£979	£1,142.81	£163.81		£1,142.81	£1,163.21
	Renewal	£675	£526.86	£-148.14		£526.86	£547.26

Establishments	Duplication	£15	£20.23	£5.23	£20.23	£40.63
Zoo	New	£14,920	£23,981.78	£9,061.78	£23,981.78	£24,002.18
	Renewal	£24,830	£30,226.92	£5,396.92	£30,226.92	£30,247.32
	Exemption Request	£1,959	£1,117.78	-£841.22	£1,117.78	£1,138.18
	Alteration	£1,832	£1,548.09	-£283.91	£1,548.09	£1,568.49
	Transfer	£550	£420.77	-£129.23	£420.77	£441.17
	Duplicate	£18	£20.23	£2.23	£20.23	£40.63
Hypnotism	New	£599	£827.58	£228.58	£827.58	£847.98
	Renewal	£348	£260.57	-£87.43	£260.57	£280.97
Sports Ground	New		£8,343.59	£8,343.59	£8,343.59	£8,363.99
	Replacement	£4,114	£7,448.92	£3,334.92	£7,448.92	£7,469.32
	Transfer		£418.40	£418.40	£418.40	£438.80
	Duplicate		£33.72	£33.72	£33.72	£54.12
Licensed Sex Shops/ Cinema/ Hostess Bar	New	£2,833	£4,190.53	£1,357.53	£4,190.53	£4,210.93
	Renewal	£2,640	£3,288.40	£648.40	£3,288.40	£3,308.80
	Variation	£249	£1,010.91	£761.91	£1,010.91	£1,031.31
	Transfer	£246	£311.39	£65.39	£311.39	£331.79
	Para 7 Waiver		£679.61	£679.61	£679.61	£700.01
Sexual Entertainment Venues	New	£5,479	£3,871.96	-£1,607.04	£3,871.96	£3,892.36
	Renewal	£3,863	£3,200.79	-£662.21	£3,200.79	£3,221.19
	Variation	£1,022	£1,036.94	£14.94	£1,036.94	£1,057.34
	Transfer	£202	£281.15	£79.15	£281.15	£301.55
	Para 7 Waiver		£664.03	£664.03	£664.03	£684.43
Scrap Metal Dealers - Site License	New	£664	£525.06	-£138.94	£525.06	£545.46
	Renewal	£328	£308.69	-£19.31	£308.69	£329.09
	Variation	£346	£428.00	£82.00	£428.00	£448.40
	Duplicate	£15	£20.23	£5.23	£20.23	£40.63
Scrap Metal Dealers - Collector's License	New	£568	£525.06	-£42.94	£525.06	£545.46
	Renewal	£328	£308.69	-£19.31	£308.69	£329.09
	Variation	£346	£428.00	£82.00	£428.00	£448.40
	Duplicate	£15	£20.23	£5.23	£20.23	£40.63
Special Treatment Premises	New (high risk)	£1,809	£2,485.17	£676.17	£2,485.17	£2,505.57
	New (low risk)	£1,209	£2,381.16	£1,172.16	£2,381.16	£2,401.56
	Renewal (high risk)	£1,617	£1,858.75	£241.75	£1,858.75	£1,879.15
	Renewal (Low risk)	£1,017	£1,858.75	£841.75	£1,858.75	£1,879.15
	Transfer	£196	£263.48	£67.48	£263.48	£283.88
	Variation	£535	£577.31	£42.31	£577.31	£597.71
	Duplicate	£18	£60.70	£42.70	£60.70	£81.10
	Removal of treatment		£81.58	£81.58	£81.58	£101.98
	Renewal of provisional	£227	£172.77	-£54.23	£172.77	£193.17
	Confirmation of provisional	£885	£1,472.67	£587.67	£1,472.67	£1,493.07
Change of Details	£104	£108.95	£4.95	£108.95	£129.35	

Notes:

Capped Fee



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City of Westminster

Licensing Committee Report

Meeting:	<i>Licensing Committee</i>
Date:	<i>18th November 2015</i>
Classification:	<i>For General Release</i>
Title:	<i>Update in Statement of Licensing Principles for Gambling Development</i>
Wards Affected:	<i>All</i>
Financial Summary:	<i>None.</i>
Report of:	<i>Operational Director for Premises Management</i>

1. Executive Summary

- 1.1 This report provides the Licensing Committee with an update on the progress in developing the council's Statement of Licensing Principles for gambling under the provisions of the Gambling Act 2005.

2. Recommendations

- 2.1 That the Committee note the development of the council's Statement of Licensing Principles for gambling as set out within this report.

3. Reasons for Decision

- 3.1 This report is provided as an update on the progress and future direction of this project. The report also will provide an opportunity for the Committee to comment or add any views that they may have on the development of the Statement of Licensing Principles for gambling.

4. Background

- 4.1 The Council as the Licensing Authority must prepare and publish a new Statement of Licensing Principles for Gambling every three years under the requirements of section 349 of the Gambling Act (2005). The current Statement ends on the 30th January 2016.
- 4.2 There have been significant changes in national gambling regulation and policy which will need to be reflected in the Statement. The Gambling Commission (the Commission) have introduced a requirement within their Licensing Conditions and Codes of Practice (LCCP) that operators, from the 6th April 2016 must identify the risks to the licensing objectives associated with that premises, its operation and the location where it is sited. The operator must then produce a risk assessment for each of their premises and set out the mitigation that they have or will put in place to reduce the risk to the licensing objectives.
- 4.3 The requirement within the LCCP to produce the premises risk assessments means that failure to undertake this requirement will constitute a breach of their operating licence. Such a breach could result in the operating licence being revoked. The requirement on operators to produce these risk assessments also puts an emphasis on operators to consider the concerns or risks identified by the Licensing Authority within its Statement of Licensing Principles for gambling.
- 4.4 The Licensing Authority has commissioned research, in partnership with Manchester City Council and supported by the Local Government Association into the effects of gambling related harm on the vulnerable and where these vulnerable groups are located within the City. The first report from this research was published in September 2015 and the final report setting out the locations of vulnerable groups will be published in January 2016. Preliminary results from this study are already identifying four hot spots of vulnerability in the Northwest of the City and one area in Pimlico.
- 4.5 The Commission published the 5th Edition of their Guidance to Licensing Authorities in September 2015. This edition reflects recent changes to the social responsibility provisions within the Commission's LCCP. There is an emphasis to promote local partnership working between licensing authorities and local gambling operators to facilitate a coordinated approach to local issues. The Guidance also provides greater clarity about the wide range of powers afforded to licensing authorities to manage local gambling regulation through measures such as the Statements of Licensing Principles for gambling.

4.6 The Commission also introduced the concept of local area profiles. The Commission describes local area profiles as an assessment of the local environment that identifies the key characteristics of the local area. The completion of a local area profile is not a statutory requirement under the Act but there are distinct benefits for both the council and gambling operators, in having a better awareness of the local area and risks to the licensing objectives. The council does have the ability to establish higher risk areas within the local area profile. These areas will be identified taking into account specific risk factors that are prevalent in the area. Some examples given in the guidance are the proximity to schools, rehabilitation centres or youth centres. The council's research will form the main elements of a local area profile which will also establish any at risk areas within the city.

5. Staged Development

5.1 Due to the statutory time constraints and the need to await the outcome of the research findings, the Cabinet Member for Public Protection and Licensing has agreed a two staged approach in the preparation and publication of its Statement of Licensing Principles for gambling.

5.2 Stage 1 required a minor revision of the current Statement of Licensing Principles. These changes were to dates, corrections of any typographical errors, the removal of irrelevant paragraphs and the addition of elements to address safeguarding against child sexual exploitation, numbering changes and any updates where legislation has changes since the last statement was published.

5.3 The stage 1 draft Statement of Licensing Principles was consulted upon for a period of five weeks ending on the 2nd October 2015. During that period the council received seven responses. Of the seven responses four were from local gambling operators, two were from national trade associations and one was from a charity.

5.4 Officers reviewed these comments and produced a final version for approval. The Cabinet Member for Public Protection and Licensing approved the final draft of the Statement of Licensing Principles for gambling on the 3rd November 2015. The Cabinet Member has recommended that the Statement is approved for publication by Full Council. The stage 1 Statement of Licensing Principles for gambling was approved by Full Council on the 11th November 2015. The Statement of Licensing Principles will be published from the 1st December 2015 for a period of four weeks and come into effect on the 31st January 2016.

5.5 A copy of the stage 1 Statement of Licensing Principles for gambling is available via the council's website along with the consultation comments and council responses.

- 5.6 The next stage of this project is currently under development. It is planned to produce a fundamentally different Statement of Licensing Principles in both structure and content by July 2016. This revision will include the approaches, knowledge and best practices gained over the previous years.
- 5.7 This revised (stage 2) Statement of Licensing Principles will include the outcome from the council's research within the local area profile. It is also the intention to separate that Statement into specific parts with each part containing policies and considerations associated with a category of gambling premises, e.g. casino, bingo, betting shop. This will enable the council to set out in more detail how it expects operators to carry out their business within the City.
- 5.8 Officers are working with colleagues from across the council who can contribute to the development of this statement, such as Public Health, Youth Offending Team, Homeless Team and the relevant teams within Public Protection and Licensing. Input into this process is also being sought from external parties such as gambling care providers, academics and other local authorities.
- 5.9 Westminster and Manchester City Council officers are collaborating on the development of the stage 2 Statement. This has the benefit of sharing expenditure and resources which will reduce the council's overall costs in developing this statement.
- 5.10 A draft will be produced for consultation in February 2016. The planned consultation period will be 12 weeks so as to enable key stakeholders ample opportunities to comment on this significant revision. It is planned to approve and publish the stage 2 revised version of the Statement of Licensing Principles for gambling in July 2016.

6. Financial Implications

- 6.1 There are no financial implications as a result of this report.

7. Legal Implications

- 7.1 The Council, as the Licensing Authority has a requirement under section 349 of the Gambling Act 2005 to prepare and publish a statement of principles for gambling.
- 7.2 Section 349(1) requires the Licensing Authority to prepare and publish a Statement of Principles before each successive period of three years. Within the proposed staged approach this Statement of Licensing Principles would meet the requirement of this subsection.

If you have any queries about this report or wish to inspect any of the Background Papers please contact: Mr Kerry Simpkin on 020 7641 1840 or email ksimpkin@westminster.gov.uk

BACKGROUND PAPERS

- Gambling Act 2005
- Gambling Commission Consolidated Licence Conditions and Codes of Practice (May 2015)
- Gambling Commission Licensing Authorities Guidance 5th Edition (Sept 2015)
- Westminster City Council's Statement of Licensing Principles (31st Jan 2013 to 30th Jan 2016)
- Stage 1 Consultation on the Statement of Licensing Principles for Gambling Cabinet Member report dated (31st Jul 2015)
- Formal agreement of the revised Statement of Licensing Principles for Gambling Cabinet Member report (13th Oct 2015)
- Consultation responses to Stage 1 Statement of Licensing Principles for Gambling consultation (2nd Oct 2015)
- Final draft of Statement of Licensing Principles for Gambling (30th Jan 2016 to 30th Jan 2019)

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