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Bridgend County Borough Council
Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr



Civic Offices, Angel Street, Bridgend, CF31 4WB / Swyddfeydd Dinesig, Stryd yr Angel, Pen-y-bont, CF31 4WB

Legal and Regulatory Services /
Gwasanaethau Cyfreithiol a Rheoleiddiol
Direct line / Deialu uniongyrchol: 01656 643147
Ask for / Gofynnwch am: Andrew Rees

Our ref / Ein cyf:
Your ref / Eich cyf:

Date / Dyddiad: Friday, 13 March 2015

Dear Councillor,

LICENSING COMMITTEE

A meeting of the Licensing Committee will be held in Committee Rooms 2/3, Civic Offices, Angel Street, Bridgend CF31 4WB on **Thursday, 19 March 2015 at 10.00 am.**

AGENDA

1. Apologies for Absence
To receive apologies for absence (to include reasons, where appropriate) from Members/Officers.
2. Declarations of Interest
To receive declarations of personal and prejudicial interest (if any) from Members/Officers in accordance with the provisions of the Members Code of Conduct adopted by Council from 1 September 2008.
3. Approval of Minutes 3 - 4
To receive for approval the public minutes of the Licensing Committee of 20 May 2014.
4. Licensing Functions: Disciplinary Licence Fees and Charges 2015/2016 5 - 12
5. Exclusion of the Public
The minutes relating to the following item are not for publication as they contain exempt information as defined in Paragraph 12 of Part 4 and/or Paragraph 21 of Part 5 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation)(Wales) Order 2007.

If following the application of the public interest test the Committee resolves pursuant to the Public Document Pack Act to consider this item in private, the public will be excluded from the meeting during such consideration.

6. Approval of Exempt Minutes

13 - 14

To receive for approval the exempt minutes of the Licensing Committee of 20 May 2014.

7. Urgent Items

To consider any other item(s) of business in respect of which notice has been given in accordance with Rule 4 of the Council Procedure Rules and which the person presiding at the meeting is of the opinion should by reason of special circumstances be transacted at the meeting as a matter of urgency.

Yours faithfully

P A Jolley

Assistant Chief Executive Legal and Regulatory Services

Distribution:

Councillors:

GW Davies MBE
PA Davies
E Dodd
CJ James
P James

Councillors

RD Jenkins
PN John
B Jones
DRW Lewis
JE Lewis

Councillors

HE Morgan
DG Owen
E Venables
R Williams

MINUTES OF A MEETING OF THE LICENSING COMMITTEE HELD IN THE COUNCIL CHAMBER, CIVIC OFFICES, ANGEL STREET, BRIDGEND ON TUESDAY, 20 MAY 2014 AT 10.12AM

Present:

Councillor R Williams - Chairperson

<u>Councillors</u>	<u>Councillors</u>	<u>Councillors</u>
P A Davies	R D Jenkins	D G Owen
G W Davies MBE	D R W Lewis	E Venables
E Dodd	J E Lewis	

Officers:

Y Witchell	-	Licensing and Registration Officer
R Morris	-	Senior Licensing Assistant
A Lee	-	Legal Officer
J Monks	-	Democratic Services Officer - Committees

50 APOLOGIES FOR ABSENCE

Apologies were received from the following Members for the reasons so stated:

Councillor C J James	-	Other Council business
Councillor P James	-	Other Council business
Councillor P N John	-	Unwell
Councillor H E Morgan	-	Unwell
Councillor B Jones	-	Personal reasons

51 DECLARATIONS OF INTEREST

None.

52 APPOINTMENT OF LICENSING SUB-COMMITTEE(S)

The Licensing and Registration Officer presented a report to propose the membership of the Licensing Sub-Committees, which sit under the two main Licensing Committees, to discharge the Authority's licensing functions. A report establishing the membership of the Licensing Act 2003 Committee and the Licensing Committee went to the Annual Meeting of Council on the 14th May 2014, explaining the reasons for establishing two Committees to discharge the various licensing functions set out in Appendix 1 to the report.

It was proposed that the Licensing Committee continue with the existing arrangements with the formation of two Sub-Committees sitting on a rota basis, consisting of seven Members of the Licensing Committee, chaired by the Chairperson and Vice Chairperson of the Licensing Committee where possible. These two Sub-Committees will undertake all licensing functions, including taxi licensing, street trading, marriage approvals etc. as necessary.

RESOLVED: The Committee approved the formation of the following two Sub-Committees chaired by the Chairperson and Vice-Chairperson of the Licensing Committee sitting on a rota basis, each consisting of seven Members of the Licensing Committee:

Licensing Sub-Committee A

Councillor R Williams (Chair)
Councillor J Lewis
Councillor P James
Councillor R D Jenkins
Councillor B Jones
Councillor H E Morgan
Councillor E Venables

Licensing Sub-Committee B

Councillor D R Lewis(Chair)
Councillor G W Davies MBE
Councillor P A Davies
Councillor E Dodd
Councillor C J James
Councillor P John
Councillor D G Owen

53 EXCLUSION OF THE PUBLIC

RESOLVED: That under section 100A(4) of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007, the public be excluded from the meeting during consideration of the following item of business as it contains exempt information as defined in Paragraph12 of Part 4, and Paragraph 21 of Part 5 of Schedule 12A of the Act.

Following the application of the public interest test it was resolved that pursuant to the Act referred to above to consider this item in private, with the public excluded from the meeting, as it was considered that in all the circumstances relating to the item, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, because the information would be prejudicial to the applicants.

<u>Minute No.</u>	<u>Summary of Item:</u>
54	Exempt minutes of a previous meeting.
55	Determination of Action for Existing Licence Holder.

BRIDGEND COUNTY BOROUGH COUNCIL LICENSING COMMITTEE

19 MARCH 2015

REPORT OF THE ASSISTANT CHIEF EXECUTIVE LEGAL AND REGULATORY SERVICES

1.0 LICENSING FUNCTIONS: DISCRETIONARY LICENCE FEES AND CHARGES 2015/2016

1.1 Purpose of report

1.2 To determine licensing fees and charges for 2015/2016.

2.0 Connection to Corporate Improvement Objectives/Other Corporate Priorities

2.1 The duties of the Council as a licensing authority are statutory in nature but many of the licensing objectives support the principal aims of the Corporate Improvement Plan and the Council's corporate priorities.

3.0 Background

3.1 The Licensing Committee has the power to determine fees charged in respect of those licensing functions within the purview of the Licensing Committee and to hear and determine objections relating to proposed fee revisions.

3.2 Members are requested to note however, that fees for many of the licensing functions are currently set by statute and the Council currently has no discretion to vary, for example, licence fees for Licensing Act 2003 activities. This report deals with licence fees which the local authority is able to set locally, including fees for taxi licensing and gambling premises.

4.0 Current Situation/Proposal

4.1 The Local Government Association (LGA) has issued guidance to local authorities in relation to locally set fees. The guidance outlines the full breadth of issues that should be taken into account when setting local licence fees. These include the European Services Directive which applies to all processes and administrative procedures that need to be followed when running a service. The principles include non-discrimination, transparency, accessibility to services and information, and proportionality.

4.2 The LGA guidance highlights one legal challenge in respect of fee setting under the Services Directive. In the Court of Appeal ruling on the ongoing Hemming v Westminster Case, key principles have been established which govern the fee setting process.

- A Council cannot include the cost of enforcement against unlicensed operators when setting a licence fee.
- The review process should ensure that Councils take steps to avoid either a surplus or deficit in future years. The Hemming v Westminster case stated that any surplus must be used to reduce the fees charged in the following year. The LGA guidance also highlighted that deficits can similarly be recovered (R v Westminster City Council ex parte Hutton (1985)) subject to taking steps to ensure that recovery does not overburden businesses.

4.3 The LGA guidance sets out the areas of cost that can be recovered in the licence fee and accordingly the cost of replacement licences / photocard badges and for the transfer of vehicle ownership should be incorporated into taxi licence fees rather than through the levying of separate charges.

4.4 In addition to these broader principles, a recent judicial review against a Welsh local authority has made specific rulings relating to the consideration of surpluses and deficits generated from fees levied in previous years in respect of taxi licensing. In granting the judicial review in July 2014, the Honorable Mr Justice Hickinbottom ruled that in that authority:-

- The level of fees charged in respect of the three strands of taxi licensing (i.e., the licensing of taxi drivers, taxi vehicles and private hire operators), failed to have regard to and/or account for any surplus or deficit generated in previous years dating back to 2009;
- The level of fees set failed to account for any surplus or deficit accrued under each of the hackney carriage and private hire licensing regimes within the regime under which they have accrued, both between each regime and in respect of each licence within those regimes.

Mr Justice Hickinbottom went on to declare that:-

- When determining hackney carriage and private hire licence fees under section 53 and 70 of the Local Government (Miscellaneous Provisions) Act, 1976, a local authority must take into account any surplus or deficit generated from fees levied in previous years in respect of meeting the reasonable costs of administering the licence fees.
- A local authority must keep separate accounts for and ensure when determining hackney carriage and private hire licence fees that any surplus or deficit accrued under and between each of those regimes are only accounted for within the regime under which they have accrued and a surplus from one licensing regime shall not be used to subsidise a deficit in another.

- 4.5 A Statement of Accounts has been produced for the Bridgend County Borough Council Licensing service in its entirety for the period 2009/2010 to 2013-14. This shows a deficit of income on the service each year, as follows:

	<u>2009/10</u>	<u>2010/11</u>	<u>2011/12</u>	<u>2012/13</u>	<u>2013/14</u>
NET SERVICE EXPENDITURE	£93,760	£71,686	£96,825	£70,567	£28,928

- 4.6 Work is well underway to embed within the authority the good practice principles set out above. Changes to staff time recording systems and the creation of separate financial codes for each regime mean that over the course of the 2015-16 financial year, the exact cost of issuing the various types of licence can be determined and the origin of the above deficits pinpointed. Recommendations can then be made to Licensing Committee in subsequent years to ensure that these costs are fully recovered.
- 4.7 In order to allow this analysis to inform future fee setting in light of the above judgments, it is proposed that licence fees are held at the current 2013-14 levels over the course of 2015-16, and remain unchanged until they are set for the 2016-17 financial year. These fees are set out in the annex to this report.

5.0 Effect upon Policy Framework & Procedure Rules.

- 5.1 The Committee's powers to set fees are outlined within the Council's Constitution.

6.0 Equality Impact Assessment

- 6.1 A high level equality impact assessment (EIA) was undertaken on the Council's budget proposals and updated MTFs and reported to Council on 25 February 2015.

7.0 Financial Implications

- 7.1 The recent Report to Council on the Medium Term Financial Strategy 2015-16 to 2018-19 (25th February 2015) sets out how income from fees and charges will be increased by CPI (at the prevailing rate currently 0.5%) plus 1%, subject to rounding, or in line with statutory or service requirements.
- 7.2 Applying a 1.5% increase to the discretionary licensing fees set out in Annex 1 would have yielded an additional income during the 2015-16 financial year in the order of an additional **£3,240**. (*This is based on the 2013/2014 discretionary licensing base income achieved of £216,051 plus 1.5% = £219,291*)

This figure is illustrative only as it is based on the assumption that the number of licences issued remain exactly the same as in the previous year. It should also be noted that a new licensing regime was implemented in 2013-2014 resulting in an additional source of income.

7.3 This potential increase in licensing income is however far outweighed by the potential risk to the authority of future challenge if it does not fully embrace best practice recommendations and recent case law in determining its fees.

8.0 Recommendation

8.1 The Licensing Committee is recommended to approve the proposals in respect of discretionary licence fees for 2015-16 as follows:-

8.2 That in line with service requirements, there is no increase in licence fees for the 2015-16 financial year.

8.3 That the work currently ongoing to develop a framework for the precise costing of licence fees is used for fee determination in future years, taking into account any surpluses or deficits prevailing at that time.

8.4 That the administrative costs of replacement licences / photocard badges and for the transfer of vehicle ownership which have been charged separately are incorporated into the licence application fee with effect from 2015-2016.

P A Jolley

Assistant Chief Executive Legal and Regulatory Services

Date: 12 March 2015

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Group Manager Public Protection**

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CF31 4WB**

Background Documents:

Report to Council on the Council's Medium Term Financial Strategy 2015-16 to 2018-19 (19th February 2015)

Open for Business: LGA guidance on locally set fees available from <http://www.local.gov.uk/documents>

Category	2014 to 2015 Actual	2015 to 2016 Proposed	Notes
Marriage Premises Approval	£1,404.00	£1,404.00	
Sex Establishment Grant (Minimum)	£752.00	£752.00	
Sex Establishment Renewal OR Variation (Minimum)	£546.00	£546.00	
Hackney Carriage or Private Hire Vehicle (including 2 Vehicle "MOT" tests at basic rate)**	£267.00	£267.00	Subject to Public Notice
Hackney Carriage or Private Hire additional Vehicle "MOT" tests**	As advised by Fleet Services	As advised by Fleet Services	External fee
Special vehicles (including stretch limousines) including relevant Vehicle "MOT" tests**	£334.00	£334.00	Subject to Public Notice
Deposit on Vehicle Licence plate	£31.00	£31.00	
Grant of Hackney Carriage/Private Hire Driver licence (inc Driver Awareness Course and cost of CRB check)	£137.00	£137.00	
Renewal of Hackney Carriage/Private Hire Driver licence	£50.00	£50.00	
Hackney Carriage/Private Hire Driver Awareness Course referral	£35.00	£35.00	
Hackney Carriage/Private Hire Driver/Operator Disclosure and Barring Enhanced Search – cost to be met by applicant	n/a	n/a	External fee
Hackney Carriage/Private Hire Driver DVLA check – cost to be met by applicant	n/a	n/a	External fee
Replacement licences/photocard badges	£13.00	No Charge	
Cancellation of Vehicle "MOT" test	As advised by Fleet Services	As advised by Fleet Services	External fee
Transfer of Hackney Carriage/Private Hire Vehicle ownership	£50.00	No Charge	
Part "MOT" re-test of Vehicle minimum	£20.00	£20.00	External fee
Private Hire Vehicle Operator licence**	£174.00	£174.00	Subject to Public Notice
Street Trading Consent – per annum Minimum	£245.00	£245.00	
Street Trading Consent – per month or part thereof minimum	£37.00	£37.00	
Street Trading Consent – annual consent for non profit making or charitable organisations	£42.00	£42.00	
Street Trading Licence Plate Deposit – payable in addition to Consent fee	£32.00	£32.00	
Sports Ground Certificate (Minimum fee)	£1,365.00	£1,365.00	

Category	2014 to 2015 Actual	2015 to 2016 Proposed	Notes
Sports Ground regulated stand (per stand) (Minimum fee)	£476.00	£476.00	
Sports Ground Certificate transfers, consent to non-specified activities or administrative amendments to certificates(Minimum fee)	£95.00	£95.00	
Sports grounds - amendments to certificates	£476.00	£476.00	
Bingo Club New application	£2,220.00	£2,220.00	Subject to statutory maximum of £3,500
Bingo Club Annual Fee	£656.00	£656.00	Subject to statutory maximum of £1000
Bingo Club Application to vary	£1,255.00	£1,255.00	Subject to statutory maximum of £1,750
Bingo Club Application to transfer	£883.00	£883.00	Subject to statutory maximum of £1200
Bingo Club Application for re-instatement	£883.00	£883.00	Subject to statutory maximum of £1200
Bingo Club Application for provisional statement	£2,220.00	£2,220.00	Subject to statutory maximum of £3500
Bingo Club Licence application for provisional statement holders	£883.00	£883.00	Subject to statutory maximum of £1200
Betting premises (excluding Tracks) New application	£1,956.00	£1,956.00	Subject to statutory maximum of £3000
Betting premises (excluding Tracks) Annual Fee	£506.00	£506.00	Subject to statutory maximum of £600
Betting premises (excluding Tracks) Application to Vary	£1,060.00	£1,060.00	Subject to statutory maximum of £1500
Betting premises (excluding Tracks) Application to Transfer	£883.00	£883.00	Subject to statutory maximum of £1200
Betting premises (excluding Tracks) Application for re-instatement	£883.00	£883.00	Subject to statutory maximum of £1200
Betting premises (excluding Tracks) Application for provisional statement	£1,956.00	£1,956.00	Subject to statutory maximum of £3000
Betting premises (excluding Tracks) Licence application for provisional statement holders	£883.00	£883.00	Subject to statutory maximum of £1200
Tracks New application	£1,680.00	£1,680.00	Subject to statutory maximum of £2500
Tracks Annual Fee	£531.00	£531.00	Subject to statutory maximum of £1000
Tracks Application to vary	£922.00	£922.00	Subject to statutory maximum of £1250
Tracks Application to transfer	£694.00	£694.00	Subject to statutory maximum of £950
Tracks Application for re-instatement	£694.00	£694.00	Subject to statutory maximum of £950
Tracks Application for provisional statement	£1,680.00	£1,680.00	Subject to statutory maximum of £2500
Tracks Licence application for provisional statement holders	£694.00	£694.00	Subject to statutory maximum of £950
Family Entertainment Centres New application	£1,326.00	£1,326.00	Subject to statutory maximum of £2000
Family Entertainment Centres Annual Fee	£526.00	£526.00	Subject to statutory maximum of £750
Family Entertainment Centres Application to vary	£746.00	£746.00	Subject to statutory maximum of £1000
Family Entertainment Centres Application to transfer	£694.00	£694.00	Subject to statutory maximum of £950
Family Entertainment Centres Application for re-instatement	£694.00	£694.00	Subject to statutory maximum of £950

Category	2014 to 2015 Actual	2015 to 2016 Proposed	Notes
Family Entertainment Centres Application for provisional statement	£1,326.00	£1,326.00	Subject to statutory maximum of £2000
Family Entertainment Centres Licence application for provisional statement holders	£694.00	£694.00	Subject to statutory maximum of £950
Adult Gaming Centres New application	£1,326.00	£1,326.00	Subject to statutory maximum of £2000
Adult Gaming Centres Annual Fee	£532.00	£532.00	Subject to statutory maximum of £1000
Adult Gaming Centres Application to vary	£746.00	£746.00	Subject to statutory maximum of £1000
Adult Gaming Centres Application to transfer	£883.00	£883.00	Subject to statutory maximum of £1200
Adult Gaming Centres Application for re-instatement	£883.00	£883.00	Subject to statutory maximum of £1200
Adult Gaming Centres Application for provisional statement	£1,326.00	£1,326.00	Subject to statutory maximum of £2000
Adult Gaming Centres Licence application for provisional statement holders	£883.00	£883.00	Subject to statutory maximum of £1200
Copy Licence for all the above categories	£25.00	£25.00	Subject to statutory maximum of £25.00
Notification of Change for all the above categories	£50.00	£50.00	Subject to statutory maximum of £50.00
Temporary Use Notice	£229.00	£229.00	Subject to statutory maximum of £500
Copy Temporary Use Notice	£13.00	£13.00	Subject to statutory maximum of £25.00

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By virtue of paragraph(s) 12 of Part 4 of Schedule 12A of the Local Government Act 1972.

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