

General Licensing and Registration Committee

13th July 2017

Licensing (Policy) – Fee Setting for Sex Establishments and Sexual Entertainment Venues



Report of Jane Robinson, Corporate Director, Adults and Health Services

Purpose of the Report

- 1 The General Licensing and Registration Committee is asked to adopt on behalf of the Council the proposed new fees relating to the licensing of sex establishments and sexual entertainment venues.

Background

- 2 In March 2011, Durham County Council resolved to adopt Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. This enabled the Council to licence all forms of sex establishments including sex shops, sex cinemas and sexual entertainment venues (SEV).
- 3 The annual fees for such licences must be determined each year by a duly authorised Licensing Committee in accordance with the Local Government (Miscellaneous Provisions) Act 1982.
- 4 The current fee for Sexual Entertainment Venues is £3517.
- 5 The EU Service Directive that came into force on 28th December 2009 requires fees for the granting of licences to be cost-neutral.

Material Considerations

- 6 The provision of fee setting under this section of the Act does not allow the delegation of that responsibility to officers or to any function other than the Licensing Committee.
- 7 It is known that applications for licences for this category of business are highly contentious and result in significant resource pressures due to the usual level of interest and objections.
- 8 The proposed fee is set having had regard to guidance issued by the Home Office with the approval of the Treasury and the Local Government Association. These figures have been used by many local authorities when setting their fees. In setting their fees a local authority must have regard to the requirements of the European Union Services Directive and any licensing case law, of which the recent case in the Court of Appeal of *Hemming v Westminster City Council* is especially relevant.

- 9 The ruling means that for these types of licences authorities may only charge the cost of processing and determining the application in the first instance. Should the licence be ultimately granted there would be an additional charge upon grant to cover other costs of managing, monitoring and enforcing the regime.
- 10 The following aspects have been considered in calculating the proposed fees:
- Consultation with the trade and other relevant parties
 - Advice and guidance to prospective applicants
 - Fee processing
 - Application processing
 - Consideration of application
 - Formal committee hearings where required
 - Production of licence
 - Post licence inspection(s)
- 11 The proposed fee for the licence is £3517 with a breakdown of the estimated costs attached as Appendix 2 to this report. The application cost is £3453 which would be payable upon receipt followed by £64 charge upon grant to cover the potential routine monitoring and enforcement costs.
- 12 The cost estimate is based on a previous application for such a venue (the *Red Velvet* SEL in 2012). See Appendix 2 Cost accounting – Fee Setting for Sexual Entertainment Licensing. The fees in relation to the costs of a hearing is a best estimate as Democratic Services are unable to provide a figure which shows the overall costs as they consider that there are too many variable factors.

Conclusion

- 13 A local authority can set a fee for sex establishments and sexual entertainment venues.
- 14 This fee must be cost neutral and must be set by the Licensing Committee.

Recommendations

- 15 That the General Licensing and Registration Committee approves the proposed Sex Establishment Licence fee that will include all forms of regulated sexual entertainment.

Background papers:

- Local Government (Miscellaneous Provisions) Act 1982

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Appendix 1: Implications

Finance

Cost accounting seeks to ensure that income from sexual entertainment licensing balances the costs associated with the licensing regime and that cost neutrality is maintained

Staffing

None

Risk

Failure to comply with the ruling in Court of Appeal of Hemming v Westminster City Council could lead to challenge and reputational damage

Equality and Diversity

None

Accommodation

None

Crime and Disorder

None

Human Rights

None

Consultation

None

Procurement

None

Disability Issues

None

Legal Implications

None

Appendix 2 Cost Accounting - Fee setting for Sexual Entertainment Licensing

Table 1. Total Personnel Costs (Based on Red Velvet Application 2012)

Officer	£ Per Hour	Time in Hours	£ Total
Licensing Manager (LM)	45	15	675
Senior Licensing Officer (SLO)	32	5	160
Licensing Team Leader (LTL)	32	74 (2 weeks)	2368
Legal Advice (LA)/Committee (C)/Members (M)			£250
Licensing Enforcement officer (Based on an annual inspection)	32	2	£64
		94	3517 (application charge £3453, charge upon grant £64)