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AYLESBURY VALE DISTRICT COUNCIL Democratic Services

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22 October 2015

LICENSING COMMITTEE

A meeting of the **Licensing Committee** will be held at **10.00 am** on **Monday 2 November 2015** in **The Olympic Room, Aylesbury Vale District Council, The Gateway, Gatehouse Road, Aylesbury, HP19 8FF**, when your attendance is requested.

Contact Officer for meeting arrangements: Alice Fisher; afisher@aylesburyvaledc.gov.uk;

Membership: Councillors: J Brandis (Chairman), M Hawket (Vice-Chairman), P Cooper, A Huxley, S Lambert, T Mills, G Powell, S Renshell, B Russel, J Ward and Sir Beville Stanier Bt (ex-Officio)

AGENDA

1. APOLOGIES

2. TEMPORARY CHANGES TO MEMBERSHIP

Any changes will be reported at the meeting.

3. MINUTES (Pages 1 - 4)

To approve as a correct record the Minutes of the meeting held on 7 September 2015 attached as Appendix A.

4. DECLARATIONS OF INTEREST

Members to declare any interests.

5. REVIEW OF FEES IN RESPECT TO LICENSES FOR ANIMAL RELATED PREMISES (Pages 5 - 12)

To consider the report attached as Appendix B

Contact Officer: Peter Seal 01296 585083

6. REVIEW OF FEES FOR SEX ESTABLISHMENT LICENSEES (Pages 13 - 16)

To consider the report attached as Appendix C

Contact Officer: Peter Seal 01296 585083



Licensing Committee

7 SEPTEMBER 2015

PRESENT: Councillor J Brandis (Chairman); Councillors M Hawkett (Vice-Chairman), P Cooper, A Huxley, S Lambert, T Mills, S Renshell, B Russel and Sir Beville Stanier Bt (ex-Officio)

1. TEMPORARY CHANGES TO MEMBERSHIP

There were none.

2. MINUTES

RESOLVED –

That the minutes of 6 July 2015 be approved as a correct record.

3. DECLARATIONS OF INTEREST

Councillor Peter Cooper declared a personal interest in item 4 – Licensing Act 2003 – Review of Licensing Policy as a member and officer of the Queens Park centre, Aylesbury and as area co-ordinator of the South Central Ambulance League of Friends.

4. LICENSING ACT 2003 - REVIEW OF LICENSING POLICY

The Licensing Act 2003, required the Council to prepare and publish a statement of its Licensing policy every five years. Until recently this had happened every three years; in 2005, 2008 and 2011. Although Aylesbury Vale District Council had until 2016 to review its current policy, it was felt that given there had been significant changes in legislation and statutory, that a thorough review should be undertaken before 2016.

The current policy had proved successful, particularly as it applied to Aylesbury town centre. The saturation policy had been commended by the Association of Town Centre Management's Purple Flag awards.

In drafting the current draft policy it had been the intention to reflect the Council's vision for the night time economy particularly in the Vale's town centres and to promote standards by setting out the councils expectations of business practice through licensing mechanisms. A restraint policy for Aylesbury town centre had proved successful and a similar approach had been prepared for Buckingham town centre which also sought to restrain later hours. If agreed at Council, this would take affect from January 2016.

Consultation on the draft policy had commenced in March 2015. As well as publication on the Councils website, a copy had been sent to Thames Valley Police, all responsible authorities, District Councillors, all parish and town councils, various multi-agency groups and other interested parties. All licensees with a premises licence or club premises certificate were also written to. A copy of the draft policy was attached to the report as an appendix.

As the policy contains specific restraint policies in relation to the towns of Aylesbury and Buckingham meetings had been organised in both towns, to which all interested parties were invited. Unfortunately the Aylesbury meeting was not well attended with only one representative of the licensing trade being present alongside representatives of the Town Council and Aylesbury Old Town Residents.

The Buckingham meeting had been much better attended, with a number of licensees, members of the Town Council, the Neighbourhood Action Group and a district councillor being present. All those present supported the proposal to restrain trading hours late at night.

Notes circulated at the meetings demonstrating the Council's genuine intention to engage and consult at a formative stage of the proposal were attached as an appendix to the report. Also attached as an appendix was a schedule of the responses received during the consultation phase. Another appendix to the report covered the public health view on alcohol in AVDC. The full representations received from solicitors representing Fever and Boutique, a response from Thames Valley Police and supporting documentation, and a representation from another premises within the saturation policy area were also appended.

Members commented and sought clarification on a number of mostly minor issues. They felt that it would be useful for a map of Buckingham to be produced showing the area of restraint. This would be particularly useful for sub-committee hearings. Members also suggested amendments for the final draft policy which had been included from the original 2003 version but were either no longer relevant or needed rewording. They requested that these amendments be included in the final draft to Environment and Living Scrutiny Committee on 22 September, and Council on 21 October.

RESOLVED –

1. That the Licensing committee noted the responses received in relation to the consultation of the draft 2016 Licensing Policy Statement and subject to minor amendments to be delegated to the Licensing Services Manager to settle the wording, agreed the Policy Statement as set out in an appendix to the report.
2. That following consultation with the Environment and Living Scrutiny Committee, the Licensing Committee recommended that Council adopt the reviewed Licensing Policy Statement.

5. REVIEW OF POLICY ON CRIMINAL CONDUCT AND UNACCEPTABLE BEHAVIOUR OF TAXI DRIVERS AND NEW APPLICANTS AND THE FIT AND PROPER TEST

In July 2015, the Licensing Committee received and discussed a report relating to the licensing of taxi and private hire drivers and operators and the need to ensure that the Council were satisfied that applicants were "fit and proper". When looking at new applications, AVDC's officers were reliant on the enhanced disclosure information provided by the Disclosure and Barring Service. At the same time officers also received information, intelligence and complaints from a number of sources relating to existing drivers and referred to the Council's policy on criminal conduct and behaviour for guidance.

Officers had sought to make revisions to this policy and Members had authorised the Licensing Services Manager to consult on the revised document before drafting a final policy for Cabinet Member approval.

The consultation had been carried out with Thames Valley Police, BCC's Children and Family Services, the Safeguarding and Compliance Officer at AMEY, the District Council's Safeguarding Group and the taxi and private hire trade. When consulting with Thames Valley Police, attention had been drawn to the use of 'certificates of good character' where the use of the Disclosure and Barring Service was inappropriate.

The Local Police Area Commander had provided advise on the section in the draft policy relating to 'non-conviction information' and in particular the disclosure of arrests. The police had no experience of or opinion on the use of 'certificates of good character'; however their use was consistent with other licensing authorities.

The only other comments received during the consultation period were from the Environmental Health and Licensing Manager. The revised policy which contained all relevant suggestions had been attached to the report as an appendix.

Once the policy had received Cabinet Member approval, it would be attached as Appendix 10 to the Council's Taxi and Private Hire Policy. Although the whole policy would be due for review starting in November 2015, it had been felt prudent that this section be reviewed earlier than the rest of the document.

RESOLVED –

1. Members noted the comments received during the consultation period on the draft policy on criminal conduct and unacceptable behaviour of taxi drivers and new applicants and the fit and proper test; and
2. That the revised policy be recommended for approval by the Cabinet Member for Environment and Waste, subject to the changes received during the consultation period.

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LICENSING COMMITTEE

2.11.15

REVIEW OF FEES IN RESPECT TO LICENCES FOR ANIMAL RELATED BUSINESSES

Tracey Aldworth

1 Purpose

- 1.1 For Members to agree the proposed fee changes as set out as Appendix 2

2 Recommendations/for decision

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| <p>2.1 That the Committee note the review of fees relating to licences for animal related businesses and agree the proposed fee changes as set out in Appendix 2, with the exception of those relating to Riding Establishments; and</p> <p>2.2 That Members consider the proposed fees in respect to Riding Establishments, discuss alternative proposals and agree that officers will bring a further report to Licensing Committee early in 2016.</p> |
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3 Supporting information

- 3.1 The Council are responsible for licensing a number of animal related businesses. These include kennels and catteries, riding establishments, pet shops, businesses involving the breeding of dogs, the keeping of 'dangerous wild animals' and zoos. The enabling legislation for each type of licence allows the licensing authority to set the fee for each based on the cost recovery of delivering the service.
- 3.2 The fees have not been reviewed for many years and have simply gone up each year in line with inflation. Given the relatively small amounts of money an inflationary increase is negligible and so fees have not in real terms grown significantly for a number of years. Attached as Appendix 1 is the current fee list for each type of animal related business.
- 3.3 In recent years the licensing services have increasingly sought the assistance of vets in carrying out inspections and this has carried a financial burden, which in some cases the Council has had to pick up. The service have also committed resources to a small but demanding number of problem premises.
- 3.4 Taking all this into consideration the licensing services have reviewed all fees for each type of licence based on the practical experience of delivering the service. Calculations have been made for each stage of the licensing process, from receipt and processing to inspection and issue and also routine visits to ensure compliance. Every effort has been made to pass on efficiencies, particularly in relation to administration. The use of vets has been reduced wherever possible. However in some cases the law requires a veterinary inspection on initial application and some on renewal too. Where a vet inspection is not required on renewal of the licence the renewal fee reflects the reduction in cost to the Council.
- 3.5 In the case of Dangerous Wild Animal and Zoo licences the fees reflect the costs to the Council but do not include the vet fees. This is because the vet fees can vary considerably depending on the species involved and size of

establishment. It is the intention that the applicant pays the fee, calculated to cover the authority's costs and in addition pays the cost of the veterinary inspection. It should also be noted that Dangerous Wild Animal licences last 2 years and Zoo licences are initially 4 years and ultimately 6 years duration.

- 3.6 Perhaps the most noteworthy proposal relates to riding establishments. At the moment the fee varies depending on the number of horses. The proposed fee is a generic one based on the cost of providing the service and the number of premises. This generic approach has been proposed so as to simplify the fee structure and negate the need to calculate the fee for each premises. Riding Establishment licences last for 12 months and if during the term of the licence an establishment acquires additional horses the licensee pays for the veterinary inspection. Attached as Appendix 2 is a copy of the proposed fees.
- 3.7 All premises licence holders (106) were consulted and attached as Appendix 3 is a schedule of responses. The schedule identifies the respondent who made the comment and describes the nature of their observation. It then appraises the comment, having regard to the law. Finally the schedule indicates any changes to the proposed fees. The schedule only deals with comments relevant to the fee structure. Other comments made, for example an opinion expressed about the inappropriateness of home boarding have not been included.
- 3.8 It is recommended to Members that the proposed fees are agreed and implemented as of the 1 January 2016 with the exception of Riding Establishments. Most of the animal related licences commence on the 1 January and terminate on the 31 December. If applied for later in the year, they still terminate at the end of the calendar year. Riding Establishment licences last 12 months but from the date issued. It is therefore not so imperative that they are agreed before the end of the current calendar year.
- 3.9 The representation from Debbie La-Haye, director of Horses Helping people demonstrates an inherent unfairness to small establishments. The Council currently licence 18 establishments and should the proposed fee structure be agreed 5 would pay more than they currently do. Officers will be guided by the views of Members and content to propose an alternative fee structure that can be brought back to committee early next year.

4 Options considered

- 4.1 The fees proposed have been calculated to cover the costs of covering the licensing regime for each type of animal related licence.

5 Reasons for Recommendation

- 5.1 Fees have not been reviewed in a number of years and at their current values do not cover the actual costs to the service.

6 Resource implications

- 6.1 All costs will be recovered by the proposed fees.

Contact Officer Peter Seal x 5083
Background Documents None

Appendix 1 – Current Animal Licence Fees

Animal Boarding Establishments	£110
Dog Breeding	£85
Dangerous Wild Animals (2 yr licence)	£333 plus vet fee (new) £215 plus vet fees (renewal)
Pet Shop	£105
Pet Shop (fish only)	£27
Riding Establishments	£275 plus £15 per horse/pony
Zoo Licence (licence is 4yr, renewal is 6yr)	£351 plus vet fee

Appendix 2 - Proposed new Animal Licence Fees 2016

Animal Boarding (Cattery/ Kennels) – New	£450 (including vet fees)
Animal Boarding (Cattery/ Kennels) – Renewal	£110
Home Boarding – New	£140
Home Boarding – Renewal	£100
Dog Breeding – New	£450 (including vet fees)
Dog Breeding – Renewal	£110
Pet Shop - New	£230
Pet Shop – Renewal	£125
Riding Establishment - New	£495 (including vet fees)
Riding Establishment - Renewal	£395 (including vet fees)
Dangerous Wild Animals - New (2 year licence)	£370 plus vet fees
Dangerous Wild Animals - Renewal (2 year licence)	£235 plus vet fees
Zoo - New (4 year licence)	£600 plus vet fees
Zoo - Renewal (6 year licence)	£600 plus vet fees

Appendix 3

Schedule of Responses to proposed fees for animal related licences - 2015

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Respondent	Comments	Appraisal	Response
Chris Impey (Dangerous Wild Animal licence holder)	<p>Rise in fees appears unreasonable and much higher than other areas and would like a detailed breakdown of costs. AVDC are using expensive vets rather than competent officers. Would like the opportunity of choosing a mutually acceptable vet.</p> <p>Legislation does not allow the licensing authority to spread cost of enforcement across all licensees. i.e. the good paying for the bad.</p> <p>Are the Council making a profit?</p>	<p>Mr Impey has been provided a breakdown of costs. The cost of a new application is higher than renewal as considerably more work is required eg research, drafting conditions, visits, etc. DWA licences last 2 years. So, as an existing licence holder Mr Impey will pay less than £118 per year, which is less than he currently pays.</p> <p>The DWA 1976 requires the local authority not to grant a licence unless a veterinary surgeon or practitioner has inspected the premises and provided a report. In the case of exotic animals, given the relative scarcity of specialist</p>	<p>No change to proposed fees for DWA licence fees. The licensing services will consider the use of vets recommended by the applicant.</p> <p>Enforcement costs include only the costs of inspection to ensure compliance. Fees calculated are in accordance with the Provision of Services Regulations 2009.</p>

		<p>vets any suggestion from the applicant regarding an alternative vet would be considered.</p> <p>Fee calculations should include the costs of ensuring compliance ie inspections but cannot include enforcing the licensing regime against non-licensed operators or legal costs of prosecution. The fees are calculated to cover the provision of the service. They will be reviewed again in the future and any surplus or deficit will be taken into consideration.</p>	
Simon Eccles (Home boarding franchise holder)	<p>Mr Eccles operates a company that organises home boarding for dogs, using a network of chosen carers. The company carry out their own detailed checks before any carer is used and apply their own strict standards which are monitored. Most of their carers are not full time, retired or self employed people and an increased fee is likely to dissuade them from continuing. Most of his</p>	<p>The law requires the fee set to ensure the cost recovery of delivering the service. The cost associated with the licensing each premises, irrespective of whether it is part of a franchise or not or when the application is received is the same ie inspection and issuing licence.</p> <p>The Swindon scheme</p>	<p>No change to fees proposed for home boarding.</p> <p>The fees cover the costs of administration and inspection. AVDC currently licence 49 home boarders and only 2 have responded to the consultation.</p>

	<p>carers only take dogs 1 or 2 weeks in any month and the work is seasonal and the additional fee would make it uncompetitive. Putting the fees up would lead to less licence applications and potentially drive home boarding under ground.</p> <p>As most animal welfare licences run from 1 January for 12 months, many home boarders wait until January to become licensed to avoid the fee for less than 6 months.</p> <p>Mr Eccles suggests a scheme operated by Swindon Borough Council whereby the franchiser pays an annual fee of £120 and each carer pays a fee of £48 per year.</p>	<p>appears to be reasonable but nevertheless would not cover the costs incurred by the licensing authority. For such a scheme to work the authority would have to abandon house inspections.</p>	
<p>Alison Davies (Home boarder)</p>	<p>Asks that fees are lowered for home boarders as business expansion is limited, profits negligible compared to other licensed premises. The fee structure is not fairly distributed in accordance with earning potential for the business concerned and that home boarding in particular is</p>	<p>The law requires the fee set to ensure the cost recovery of delivering the service. There are obvious commercial limitations on home boarding and business expansion would inevitably require a purpose built kennel or cattery.</p>	<p>No change to fees proposed for home boarding.</p>

	being unfairly penalised by its limitations.		
Debbie La-Haye Director Horses Helping People	We are a small not for profit organisation and provide only a small number of riding lessons. Previously the fee was a flat rate, plus an additional fee for each horse. The increase for us is from £320 to £395.	The proposed generic fee will see an increase for 5 of the 18 premises licensed by AVDC. The proposed single fee is calculated to simplify the fee structure but could be seen as unfair.	Defer decision on fees for Riding Establishments and bring further report back to Licensing Committee in early 2016.
Ian Edmans (Zoo licence)	This seems reasonable.	Noted	No change
Susan Halbach (Kennel and cattery)	Not clear what constitutes a 'new licence'. Disputes that licence fees have risen only in line with inflation. Amazed that home boarding is treated differently to conventional boarding.	A 'new licence' is one that has not been issued before. The fees have for a number of years only risen in line with inflation. Considerably less time is spent in licensing home boarders.	No change to proposed fees for animal boarding establishments.

LICENSING COMMITTEE

2.11.15

REVIEW OF FEES FOR SEX ESTABLISHMENT LICENSEES Tracey Aldworth

1 Purpose

- 1.1 For Members of Licensing Committee to agree the reviewed fees for licences of sex establishments.

2 Recommendations/for decision

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|---|
| 2.1 To agree the licensing fees as set out in Appendix 1. |
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3 Supporting information

- 3.1 On the 1 December 2010 Full Council agreed to adopt Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (the '1982 Act') as amended by Section 27 of the Policing and Crime Act 2009 with effect from 1 September 2011. At the meeting of the Council, the Licensing Committee were delegated the power to determine applications for Sex Entertainment Venues licences, formulate a policy, set fees and standard conditions and all the Council's other functions arising from the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended.
- 3.2 Apart from agreeing substantial delegations to Licensing Committee the effect of adoption was to broaden the scope of licensing of sex establishments. The Council already had power to licence sex shops and sex cinemas. This decision brought Sex Entertainment Venues (e.g. Lap dancing clubs) within the description of sex establishments.
- 3.3 In July 2011 Licensing Committee agreed a policy on sex establishment licensing, standard conditions and the fees. The new regime took effect on the 1 September 2011. In practice only one existing business was affected by the new licensing system, namely Mirage who operate as a night club at weekends and a lap dancing club for a couple of days during the week. The club were operational prior to then and were regulated under the provisions of the Licensing Act 2003 only. As this legislation could not fully address issues arising from entertainment of a sexual nature the Government introduced the adoptive powers mentioned in paragraph 3.1.
- 3.4 Since adoption the Council have not received any applications for sex establishments other than Mirage, who renew their licence every year. The legal position remains the same and without any changing landscape of this area of business within Aylesbury Vale, the Council's Sex Establishment Licensing Policy, conditions and Procedures remain fit for purpose. However, given recent senior court judgements and 4 years experience of implementing the licensing regime it is necessary to review the fees for Sex Establishment Licences.
- 3.8 Schedule 3 to the 1982 Act states that an application for the grant, renewal, variation or transfer of a sex establishment licence shall pay a reasonable fee determined by the appropriate authorities. Whilst the term "reasonable fee" appears to give the Licensing Authority a wide discretion, the European

Services Directive ensures that the fee is limited to cost recovery in respect to the processing and determination of an application and any subsequent compliance costs arising.

- 3.9 In setting fees reference is made to the European Services Directive, implemented by the Provision of Services Regulations 2009. In essence this says that Councils must ensure that any fees charged are proportionate and transparent and that the charging process must ensure that any costs that are additional to the initial processing of the application can be refunded to unsuccessful applicants. Fees must not be used as an economic deterrent.
- 3.10 There are essentially four licensing processes arising from sex establishments – initial grant, renewal, variation and transfer. Based on experience previous to the current regime of processing applications for sex establishments, it was assumed that initial applications would be significantly contested, resulting in considerable administration time and the need for a hearing to determine the application and possibly some form of further appeal. If this were the case, following the receipt and validation of the application and entering the details on the computer management system, it would then have to be copied and sent to the nominated consultees. The application would then be subject to certain redactions and made available for public scrutiny. Objections would require acknowledging with details of the consequent hearing, names and addresses redacted and sent on to the applicant. A committee report would then have to be prepared and circulated to all the parties. The hearing would likely be a significant length of time. The decision notice would need to be written up in detail and then sent to all parties. Notional time lengths for each process multiplied by the grade of the post responsible were used to cost a contested application and resulted in a fee of £2020.
- 3.11 Applications for sex establishment licences draw particular attention and scrutiny, it is therefore proposed to continue to charge the full fee for all new, transfer and variation applications. However with the only current venue in Aylesbury Vale to hold a sex entertainment venue licence having made no changes to its operating style, hours or having been reviewed in the three years it has been running, it would be unfair to levy the full cost of a hearing in the renewal of the licence, however reserve the right to obtain the balance of the licence fee if a hearing is required. Appendix 1 sets out the new fees list for 2016.
- 3.12 If a hearing is required to determine the application then the full fee must be received prior to the hearing being held. Failure to provide the full fee would render the application incomplete and therefore unable to be determined. A new, transfer or variation to a licence, if uncontested, would receive a proportionate, partial refund. Whereas an unsuccessful application would receive a smaller refund equal to the costs of compliance inspections. Appendix 1 sets out the proposed fees list for 2016.

4 Options considered

- 4.1 To retain the current fee structure, however this would be in contradiction to the EU Services Directive and leave the council vulnerable upon scrutiny.

5 Reasons for Recommendation

5.1 This is a statutory renewal and enables to continued licensing of Sex Entertainment Venue with balanced and proportionate fees.

6 Resource implications

6.1 none

Contact Officer	Peter Seal x 5083
Background Documents	None

Appendix 1

Sex Establishment Licensing – Fees

Initial application:

Application fee - £2020 (N.B. £160 refundable if application unsuccessful)
£1540 refunded if uncontested.

Transfer of licence

Application fee - £2020 (N.B. £160 refundable if application unsuccessful)
£1540 refunded if uncontested.

Renewal of licence:

If application uncontested - £480

If contested the balance of £1540 to be paid (N.B. £160 refundable if application unsuccessful)