



## Licensing Committee agenda

Date: Tuesday 26 July 2022

Time: 6.30 pm

Venue: The Oculus, Buckinghamshire Council, Gatehouse Road, Aylesbury HP19 8FF

### Membership:

D Barnes (Vice-Chairman), J Baum, T Green, P Griffin, C Jones, N Rana, J Rush, N Southworth, B Stanier Bt, D Town, J Towns, G Wadhwa, H Wallace (Chairman), D Watson and A Wood

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## **Part A - Statutory Functions**

None

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## Licensing Committee minutes

Minutes of the meeting of the Licensing Committee held on Wednesday 15 June 2022 in The Oculus, Buckinghamshire Council, Gatehouse Road, Aylesbury HP19 8FF, commencing at 6.30 pm and concluding at 8.20 pm.

### Members present

D Barnes, T Green, N Rana, N Southworth, B Stanier Bt, D Town, G Wadhwa, D Watson and A Wood

### Apologies

J Baum, P Griffin, C Jones, J Rush, J Towns and H Wallace

### Agenda Item

#### 1 Apologies for absence

Apologies were given from Cllrs Baum, Griffin, Jones, Rush, Towns and Wallace.

#### 2 Appointment of Vice-Chairman

The Principal Committee and Governance Services Officer reported (in the Chairman's absence) that the Chairman had confirmed that Cllr Dominic Barnes be appointed Vice-Chairman for the Licensing Committee for the ensuing year. Cllr Dominic Barnes chaired the meeting.

#### 3 Declarations of interest

There were no declarations of interest.

#### 4 Minutes of the previous meeting

The Minutes of the Meetings held on 2<sup>nd</sup> February and 18 May 2022 were agreed as a correct record subject to the inclusion of Cllr Barnes and Southworth under Members present.

A Member highlighted the estimated figure of 1200 problem gamblers in Buckinghamshire and queried how the Council intended to respond. The Cabinet Member agreed to discuss this with officers and to see how Buckinghamshire compared to other local authorities and what action was being taken in relation to the Council's policy.

#### 5 Regulation of Cosmetic Piercing and Skin-colouring business

The Licensing Committee received a report on the regulation of cosmetic piercing

and skin-colouring businesses. The Environmental Health Manager reported that the Local Government (Miscellaneous Provisions) Act 1982 enabled local authorities to charge reasonable fees for the registration of persons carrying out the business of skin piercing and the premises in which these activities took place. The fee covered the initial inspection(s) associated with registration, checking training qualifications and competency of the operator, advising the business about the requirements of the byelaws and best practice, and associated administration. Currently there were different registration charging structures across the legacy areas and approval was sought for the adoption of a common charging policy.

Members noted the following points:-

- Benchmarking with neighbouring authorities showed similar disparities in charging structures.
- There was no statutory requirement for public consultation when setting fees under the Act and it was for this Committee to agree these fees. Fees should be set at a level to ensure full cost recovery whilst also being fair and providing value for money for the businesses. Councils were required, however, to take a reasonable and proportionate approach and should aim to set a fee level that was sufficient to cover the cost but not make a surplus.
- Fees should be reviewed on an annual basis, taking into account of any increase in the Retail Price Index (RPI) and where appropriate, an increase would be applied to the fees to recover related increased costs to the Council.
- Since there was a disparity across the Buckinghamshire district in terms of the adoption of the registration provisions in the Act and the adoption of byelaws for cosmetic piercing and semi-permanent skin-colouring, work was currently taking place to allow a further report to be presented recommending the provisions of sections 14 – 17 of the Act being adopted, to ensure harmonisation of registration provisions and that byelaws for cosmetic piercing (piercing of the body including the ear), semi-permanent skin-colouring including micro pigmentation, semi-permanent make-up and temporary tattooing, electrolysis and acupuncture were made in accordance with the necessary procedures and for these to be confirmed by the Secretary of State for Health and Social Care and that once confirmed, that the related existing legacy byelaws would be revoked.

The following application fees had been proposed:-

Registration of premises and proprietor	£220
Registration of an additional operator	£60
Replacement copy or administrative changes to a Certificate	£30

During discussion the following points were made:-

- Confirmation was given that the Council was unable to make a surplus. The fees proposed were consistent with neighbouring authorities.

- It would be helpful to have an idea of the number of businesses who might apply for this registration to gain an idea of total income. In response it was noted that for 2021 there were applications for 11 operators and 72 premises. The income for that year was approximately £12,000. It would be difficult to compare as it was not a standard year but the budget would be monitored to ensure income covered expenditure.
- In terms of enforcement of registrations, this was usually in response to complaints, but a proactive approach would be looked at as part of the process of adopting byelaws and harmonising policies and processes across the legacy Council areas. Environmental Health Officers have a constant presence on the High Street as part of their day-to-day role and would identify, and give advice to, any new premises that had set up. Other existing businesses may also flag if a new premise did not have a registration.
- A question was asked when legacy Councils had their last fee review. Chiltern and South Bucks District Councils may have reviewed their fees four years ago, but a written response would be given for clarity.
- A Member commented that the fee structure should allow for resources for inspection. The public have a right to ensure that the premises were fit for purpose. The Environmental Health Manager gave assurance that every premises that applied for a registration was inspected and that was incorporated in the fee, for example to check on cleanliness and sterilisation arrangements and any reactive inspection was as a consequence of a complaint.
- Clarification was given that skin lightening, if done at home or by a medical practitioner, would fall to the Health and Safety Executive (HSE) and was not part of these regulations. If in a salon, then inspections would be conducted by the local authority but would not be registered under the Act.
- A question was asked about individual operators and checking the operator through surprise visits. The Environmental Health Manager reported that the inspection programme was risk based and Councils had been advised by the HSE as to which health and safety topics should take priority. The Environmental Health Officers would be monitoring any new premises as part of their daily role when visiting other premises in the High Street or if any concerns were raised by members of the public. Operators could be freelance however they could not be peripatetic and would need registered premises. It could be mobile e.g. a van that meets requirements (and which would have been inspected). A Member suggested that the Cabinet Member could look into this issue as there could be 5 freelancers operating in one building but only 3 of them might be licenced. It was an offence to operate without a registration. The Environmental Health Officer would take action against an operator if this happened to be the case.
- Under this legislation, which operates through compliance with byelaws, the penalties for non-compliance tend to be lower (maximum £1000). A stronger enforcement approach, and for activities which aren't covered by a registration, would be to use the Health and Safety at Work Act and action could be through the service of improvement notices or if there was an imminent risk of personal injury, prohibition notices could be served

preventing an activity with immediate effect.

On a vote being taken the recommendation was proposed by Cllr Southworth and seconded by Cllr Green and:-

**RESOLVED that the harmonised fees be approved for the registration of persons who undertake skin piercing and related activities and the premises where skin piecing and related activities take place with effect from 1<sup>st</sup> July 2022.**

## **6 Hackney Carriage and private hire licensing enforcement update**

The Licensing Committee received an enforcement update on the implementation of the Council's new hackney carriage and private hire licensing policy, (the "Policy") in September 2021. The Licensing Service committed to provide routine reports to the Committee related to application of the Policy. More specifically, the intention was to provide annual performance reports supplemented by quarterly reports on enforcement activities, the outcome of court proceedings and statistical data on licences issued.

The Principal Licensing Officer reported that the introduction and implementation of the new Policy, together with the corresponding alignment of service provision across the former District Council's controlled areas, had been a significant undertaking with many challenges. Council officers and the local taxi and private hire trade have had to adjust to new procedures and ways of workings as a consequence of the policy changes. Throughout this period, robust measures have remained in place to ensure that, in line with statutory and best practice guidance, only those considered fit and proper to hold licences were permitted to do so.

The Principal Licensing Officer went through the report and the following points were highlighted: -

- On 31st March 2022, 2059 vehicles were licensed with the Council. During the reference period the Council received 1553 licence applications for vehicle licences. Of this figure, 486 applications were for new licences and 1067 were applications to renew existing licences. 22 of the refused vehicle applications relate to vehicles that failed to meet the Council's Policy requirement. Specifically, these applications were submitted for vehicles that had been deemed category S (structural) vehicle insurance write offs. In all instances, as was required, applicants were offered the opportunity to make representation before a final decision was taken. With respect to the rejected applications, applications were rejected for a variety of reasons but often because they were not complete and valid. Where possible officers try to avoid rejecting applications and support was provided to help encourage applicants to submit valid applications.
- On 31st March 2022, 3013 drivers were licensed with the Council. During the reference period, the Council received 728 driver licence applications: 143 from new drivers and 585 from drivers applying to renew. 5 applications received during the period were refused on the basis that officers were not

satisfied that the applicants could be considered fit and proper to be licensed with reasons such as driving without appropriate insurance, mobile phone conviction or failed to disclose licence refusal. 66 applications were attributable to applicants submitting multiple incomplete applications. 28 applications were referred to an officer for further investigation as issues of concern had arisen during the application process.

- On 31st March 2022, 219 private hire vehicle operators were licensed with the Council. During the reference period, the Council received 29 new and 43 renewal operator applications. The 29 rejected applications were mainly attributable to applicants submitting multiple incomplete applications.
- In addition to determining applications, the Licensing Service regulates taxi and private hire operations through reactive and proactive activity. Reactive work was typically in response to incident reports and complaints received from members of the public, other agencies within and external to the Council, and from members of the taxi and private hire trade. Proactive work was typically pre-arranged activities, often based on intelligence, and may involve targeting locations and/or activities such as large events, areas used by the potentially vulnerable such as schools, or specific operations such as “plying for hire” and multi-agency visits. Since the implementation of the new Policy, most of the activity had been reactive, with more proactive activity planned over the coming months. The Licensing Service had revised the Council’s online reporting system, available via the Council’s web pages, which now integrated directly with the back-office system used within the service. 99 recorded complaints were received by the Licensing Service during the reference period. Between 1st January 2022 and 31st March 2022, 56 complaints were received relating to areas such as driving standards, behaviour, parking, safeguarding and vehicle condition. There were only 2 safeguarding complaints.
- During the reference period, 6th September 2021 to 31st March 2022, 58 investigations were instigated in respect of drivers and 3 in respect of operators. The latter 3 investigations relate to instances of failure to notify changes of company directors and concerns relating to vehicle maintenance. In respect of drivers grounds for investigation related to areas such as accidents, driver behaviour, driving standards and offence related. During the reference period, 8 drivers had their licences revoked, one of which was currently under appeal via the Magistrates Court. During the reference period, 14 drivers had their licences suspended one of the main reason being failure to provide an outstanding medical certificate.
- During the reference period 605 vehicles were suspended. Vehicles were suspended for a wide variety of reasons but most typically on annual inspection where the vehicle did not meet the Council’s Policy standards but there was no immediate risk to passenger safety. In accordance with the legal provision, once served with a notice the vehicle proprietor had 21 days to rectify the issue before the suspension takes effect. During the reference period 14 vehicle licences were revoked. The grounds for revocation of these vehicles included significant accident damage or vehicles not in a road worthy condition.

- During the reference period, 2 operator licences were revoked. These licences were in respect of the same operator, who held separate licences with 2 of the legacy Council areas. The grounds for revocation were a series of issues including safeguarding concerns, failure to notify change of operating base and operating with unlicensed drivers.
- During the reference period 3 appeals were served on the Magistrates Court. 2 cases were heard on appeal at the Magistrates Court. In October 2021, Magistrates upheld the Council's decision to revoke a driver's licence on grounds that included conviction for illegal plying for hire by another authority, failure to inform the Council of the conviction and failure to disclose a speeding conviction. The appellant was ordered to pay £560 towards the Council's costs (£1917). In February 2022, Magistrates allowed an appeal, overturning the Council's decision to revoke a driver's licence on the basis that the driver had been dishonest and demonstrated poor standards of driving. The hearing was adjourned immediately following the judgement with reasons for the decision and legal argument regarding costs still to be heard.
- With the new Policy Councillors agreed that decision making on licensing applications would be delegated to Council officers, as permitted under the Council's constitution. The basis for this decision was that Buckinghamshire Council was one of the largest taxi licensing authorities in the country with a large number of applications received per annum. The Policy currently stated that, as part of the decision-making process, applications would "generally" be considered by a panel of Council officers tasked with making a recommendation to a senior officer who would then make the final decision. In practice this panel step had proved to be impractical, causing delays in the decision-making process, without any significant tangible benefit. As a result, the decision-making process had recently been thoroughly reviewed by senior officers of the Council's Licensing Service and Legal Services and the consensus view was that the recommendation of a decision by a panel of officers was an unnecessary step in the current process that created duplication and delay, and negatively impacted licence holders and applicants. It was proposed that instead, the final decision on issuing a licence should fall to an individual authorised officer with the necessary training, skills, competence, and experience to make the decision. In accordance with the Council's constitution, minor changes to the Policy, where formal consultation was not considered necessary, may be made with the agreement of the Chairman of the Licensing Committee, Cabinet Member for Regulatory Services, and the Head of Service.

During discussion the following points were noted:-

- A Member asked, in addition to the number of new applications and licences granted, would it be possible to report the number of licences not renewed, lapsed or surrendered. In addition he asked why the fee was refunded if the licence was refused. If the Council was aiming to be cost neutral then the fee should still be applied for administration of applications. The Principal Licensing Officer reported that where possible the service recouped the costs



such as through the driving assessment tests, which the drivers booked themselves. However there was a legal provision that if a licence was not granted then the Council could not retain the fee. A Member expressed concern that this gave the Council an incentive to grant the application to keep the fee. The Head of Service reported that this incentive did not exist within the service but that they tried to process applications as quickly as possible whilst prioritising public safety. When an application was received it went through a series of checks which could be a lengthy process as the Council needed to rely on other information and intelligence from other agencies e.g if the driver was already licensed in another local authority area. However, the service area had looked at streamlining the process through their digital systems.

- In reference to the fee costs, the Head of Service reported that a decision had already been made on fees by the Committee and currently the driver licence fees was £303 (every 3 years).
- A question was asked how the Council found out about prosecutions such as speeding fines after a licence had been granted. The Principal Licensing Officer reported that this was a challenging aspect and that it was difficult to monitor prosecutions during the course of a licence period. However, DVLA checks were undertaken on renewal and if a prosecution or other offence was discovered this may be grounds to refuse the licence. Reports could also be made by members of the public, police and other drivers.
- There was typo in paragraph 2.18, the number of categorised complaints is less than the total number. The total number of complaints received should read 54, not 56.
- A Member expressed concern that some drivers might submit applications which were likely to be refused because they had for example not disclosed a speeding fine. This would waste officers time, could be vexatious and in addition the fee would need to be refunded. The Head of Service reported that every application had to be looked at on its merits, for example a previous conviction may no longer be relevant as it was spent. Another Member suggested that this issue could be referred to the Local Government Association Licensing Committee with the view to lobby Government to change the law so the fee for failed applications could be retained.
- A Member questioned the fee levels that had been set for taxi licensing by the Committee the previous year with the new policy whether the Council was operating at a surplus or a deficit. In addition with the 605 vehicles which were suspended whether there was any geographical areas which were significantly worse than others. A final question was asked about the level of evidence required to obtain a prosecution against a driver or operator. In response the Head of Service reported that in terms of income and expenditure it was too early to tell at this moment in time and a report would be submitted to Members at the end of the financial year. Any remaining legacy reserves had been utilised at the end of the financial year (as had been advised would be the case) so for this financial year the service area had started afresh. Budgets currently seemed in line with what was expected and were so far relatively steady, however because licences were

renewed at different points throughout the year it was difficult to obtain a totally clear picture e.g. Wycombe had peak applications times in March and October. A Member asked for a breakdown in each area on whether the Council was cost neutral as this would provide useful information on whether any fees should be reviewed. The Head of Service reported that with applications that were renewed 3 or 5 yearly a longer time period was required for analysis. In terms of suspended vehicles, it was difficult to analyse geographical areas as the Council was now unitary. However, drivers were encouraged to prepare their vehicles before testing. The Service area tries to drive up standards through regular newsletters to the trade. Finally in response to the question on investigations it would be helpful to have the operator name, who should have a detailed record of each of their bookings and the Council would expect to be provided with details on the driver and the vehicle they were driving. The date and time of the incident would also be helpful. Customers should not be deterred from reporting any concerns if they did not have all those details to hand but should provide as much information as they could. The Principal Licensing Officer reported that if any complaints were made they would look at the operator's records which they were legally obliged to keep. Some customers may not wish to take the complaint further but information was still helpful as it was kept on record and would be considered when the licence was renewed as to whether the driver was fit and proper.

- A Member suggested that it was important to focus on the majority of taxi drivers who complied with the Policy and provided a good level of service. The Head of Service agreed that the vast majority of drivers did comply and that enforcement activity was focused on the minority. During the pandemic some other local authorities had arranged a reward scheme for drivers around Covid cleanliness of vehicles, however as Buckinghamshire was such a large authority this would be difficult to administer. The Service area would like to consider similar reward and recognition initiatives in the future. They were currently looking at an Operator Engagement Programme to ensure a direct line of communication between Operators and the Service.
- A suggestion was made that there should be quarterly reports.

On a vote being taken, the recommendation being proposed by Cllr Green, seconded by Cllr Towns it was:-

**RESOLVED that**

- 1. The contents of this report be noted including the matters for inclusion/exclusion in future enforcement update reports.**
- 2. The frequency of reporting on hackney carriage and private hire enforcement activities be quarterly to the Licensing Committee.**
- 3. The Committee note a recommendation from the Head of Service to the Chairman of Committee and Cabinet Member that the officer panel step be removed from the decision-making process by way of a minor amendment to the Policy.**

## **7 Update on Hackney Carriage Fares**

The Committee received a report on Hackney Carriage Fares. Where tariffs were set by the local authority, drivers of hackney carriage vehicles (taxis) cannot charge more than the fare specified on the meter apart from in certain exceptional circumstances, although they could charge less. Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 set out the process and requirements for the fixing of fares, which included the requirement for advertising and a statutory 14 day consultation period. The new Buckinghamshire Council Taxi and Private Hire Licensing Policy came into force on the 6th September 2021 and the Policy removed the previous legacy area hackney carriage zones thereby leaving one single operating zone. As a result, a new single set of hackney carriage tariffs was also implemented on the 6th September 2021 for all drivers of hackney carriage vehicles in Buckinghamshire.

Given that the new tariffs were implemented relatively recently, it was intended that the next review would take place in April 2023. However, given the significant recent increases in fuel prices, along with requests from the hackney carriage trade, it was considered appropriate and necessary to carry out a review now to ensure that drivers were able to earn a fair wage whilst also balancing the cost of any increase to passengers. This was an issue which was affecting authorities across the country with many local and national licensing authorities currently in the process of reviewing and increasing their hackney carriage tariffs as a result of recent trends in fuel prices.

In order to obtain the views of the hackney carriage trade as a whole and to clarify whether there was a consensus on the issue across the trade generally and also in different Council areas, officers carried out a short pre-engagement survey in May 2022 which asked specific questions on whether or not each of the tariffs should be increased and the reasons for the answers provided. 57 responses were received which reflected a broadly similar response rate across the previous legacy areas with 7 responses received from the Aylesbury area, 16 from the Chiltern area, 15 from South Bucks and 11 from the Wycombe area. It was not possible to confirm in which area the remainder had previously been licensed.

The majority (96%) of those responding were in favour of an increase to Tariff 1 and only 3 of the responses were against this proposal. The responses in relation to Tariff 2 were less conclusive with only 49% in favour of an increase. Similarly, only 45% of the responses were in favour of an increase to the current Tariff 3. The reasons given for the need to increase tariffs were mainly due to the increased cost of fuel but increased maintenance costs and the rises in the cost of living generally were also mentioned.

Work was currently being carried out with the meter companies to establish the best means of increasing Tariff 1 in a manner which was fair to both drivers and passengers. The Principal Licensing Officer reported that they had met with the trade and also the meter companies (who had a good knowledge of benchmarking nationally). Reference was made to the CPI annual rate of inflation at 9% but also to

rising fuel costs over the last 12 months which have gone up 40%. There was a proposal to increase the Tariff 1 flag rate (charge for minimum fare) from £3 to £3.50 and to reduce the distance for the flag from 700 yards to 124 yards. In practical terms for a 2 mile journey, the recognised distance used for comparison purposes, on tariff 1 it is currently £5.94 that would rise to £7.04 (18.5%). In terms of the other 300 plus local authorities, 75 Councils have reviewed their fares this year, with 29 of those Councils proposing higher fares. This proposed increase was in line with what other local Councils were doing; Wokingham £8.20, Basingstoke £7.60 and Slough and Stevenage £7.00.

Once finalised, the proposed new tariffs would be advertised locally, as required by the relevant legislation, and also via the Council's website. A key decision report would be submitted to the Cabinet Member which would include the views of this committee. If approved there would be a statutory 14-day consultation period, and if there were no objections then the decision could be implemented. A decision on this issue was currently scheduled on the forward plan to be made on or after the 13th July 2022. The amended tariffs would be implemented as soon as possible following the decision, depending upon the availability of the meter companies to reprogramme taximeters. If objections were received, then the decision would be returned to the Cabinet Member and Leader for consideration.

During discussion the following points were made:-

- It would be helpful to have some clarity on the size of the business as this could have a significant impact on the local economy. The Principal Licensing Officer reported that the vast majority were private hire vehicles and the Council had no control over the rates that were charged. There were in the region of 300 hackney carriage vehicles which the Council licenced where the Council did have control; these were the taxis that sat on the ranks with a taxi sign on the roof. They were often single operators and owned and operated by the individual who held the licence. The numbers would be included in the key decision report for reference.
- Clarity was sought on when the consultation was undertaken as the fuel prices had increased since May and also what apportionment of the fee related to fuel. Reference was also made to hybrid/electric cars and whether that was accounted for in the figures. The Member also made a comment on what happened to the fee when fuel prices came down. The Principal Licensing Officer commented that he did not have the figures on apportionment when the fees were originally set. However, what was used across the country as a comparison was a 2 mile journey, so for tariff 1 currently the 2 mile journey would cost £5.94 with the proposal it would increase to £7.04. The Head of Service reported that the survey in May (undertaken from 9-15 May 2022) was asking the trade whether the fee should increase rather than by how much. There was wide spread support for an increase in the fee. However, the work on pricing had been undertaken much more recently so reflected current fuel prices. The number of electric vehicles were low and clarity on numbers would be included in the key decision report; electric vehicles were incentivised by being licenced for a

longer period of 15 years. They would consider the right approach for electric vehicles. Another reason that the trade had asked for an increase was due to the cost of living crisis, so not completely fuel related. The tariffs would be reviewed if fuel and other prices reduced significantly. The Member commented that it would be helpful to have the fee broken down to show the percentage between fuel and cost of living and maintenance costs etc. Therefore if the market changed it would be clear how the fee should be adjusted. This was agreed.

- A Member queried how the 18.5% increase had been determined. The Principal Licensing Officer reported that it had been proposed at a meeting they had with the trade but with reference to benchmarking figures from other local authorities reviewing their fees. The Member expressed concern that this increase should be considered carefully as other public sector areas were only receiving 2-3% increases in their pay. The Principal Licensing Officer reported that the fee that the Council set was a maximum charge but what was actually charged by vehicle proprietors across Buckinghamshire was very mixed when the fares were introduced last September. Some proprietors thought that the fees that were set with the new Policy and came into effect in September 2021 had been set too high and had been charging lower fees. There was now a consensus from the trade to increase fares in line with the proposed new tariffs. The taxi trade would also be concerned that they do not price themselves out of the market with their competitors from the private trade. Another Member commented that the price for electric chargers had increased by 40% or more in the last few months. In London new cabs were electric and it was important to encourage electric cars especially as they were expensive to purchase in the first place. It was agreed that it would be useful to find out the average price that Hackney carriages were charging passengers across Buckinghamshire if possible.
- In terms of private hire vehicles, a question was asked whether their prices had increased and Members were informed that they had risen significantly although they did not have this information as their fees were not regulated by the Council.
- The Committee agreed that a report should be brought back to the Licensing Committee to review fees if fuel and other prices dropped significantly. The Cabinet Member would take into account the views of the Committee in terms of the key decision, and that the report referred to a 9% increase.

**RESOLVED that the comments made by the Licensing Committee be taken into account, in advance of a Cabinet Member key decision on the proposal to increase Hackney Carriage fares (tariffs) for the Buckinghamshire Council area in light of significant increases in fuel prices and further to requests from the licensed hackney carriage trade.**

**8 Date of next meeting**

26 July 2022 at 6.30pm (changed from 21 July on calendar)





## Report to Licensing Committee

**Date:** 26<sup>th</sup> July 2022

**Title:** Harmonisation of skin piercing registration requirements and model byelaws for skin piercing activities

**Cabinet Member(s):** Councillor Mark Winn

**Author and/or contact officer:** Ian Snudden

**Ward(s) affected:** all wards

**Recommendations:**

**1. To recommend to Full Council:**

- 1.1 That the Council resolve to adopt the provisions of Sections 14 to 17 inclusive of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) in relation to Acupuncture, Tattooing, Ear-Piercing and Electrolysis to apply to the Buckinghamshire Council area.
- 1.2 That following the implementation period for the resolution to adopt the provisions of Sections 14 to 17 inclusive of the Local Government (Miscellaneous) Provisions Act 1982 (as amended) the Council resolve to adopt the model byelaws relating to acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis which appear at Appendix 1

**Reason for decision:** These recommendations will harmonise the registration of persons who undertake skin piercing and premises where skin piercing activities take place in order to provide a consistent level of protection to those who use these services across all legacy areas.

## 1. Executive summary

- 1.1 Currently there are different registration regimes and byelaws across the legacy areas. This report seeks Member's approval for the adoption of model byelaws for the safe practice of acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis across the whole district.

## 2. Content of report

### **Resolution to adopt the provisions of Sections 14 to 17 Local Government (Miscellaneous Provisions Act 1982 (as amended) ("the Act").**

- 2.1. Currently Aylesbury, Chiltern and Wycombe legacy areas have adopted the provisions of sections 14 and 15 of the Local Government (Miscellaneous Provisions) Act 1982 which requires registration of businesses and persons who perform skin piercing namely tattooing, ear piercing, electrolysis and acupuncture.
- 2.2. Once adopted, registration is mandatory in that the local authority must issue a registration if the application has been properly made and can only be refused where a person has previously been convicted of an offence under Section 16(1) or (2) of the Act and the convicting magistrate cancelled the previous registration. A registration can only be cancelled by a magistrate upon conviction of an offence, and this is in lieu of a fine. Such offences are the carrying on of a skin piercing business without being registered, contravening byelaws and failing to display the byelaws and registration.
- 2.3 In some circumstances, where there has been undue delay in processing and issuing a licence by the local authority, the applicant may commence their business without that licence (tacit authorisation). However, the Provision of Services Regulations 2009 allows different arrangements to be put in place when justified by an Overriding Reason of Public Interest. Therefore, tacit authorisation would not be applicable for skin piercing activities because of the public health risk.
- 2.4 As part of a consolidation exercise it is recommended that the provisions of sections 14 to 17 inclusive of the Act are adopted across the Buckinghamshire area. It is understood that some legacy areas may also have adopted sections 16 and 17 of the Act. Notwithstanding, this report is based on a recommendation for all sections to be adopted for the full Council area all together for ease, consolidation and consistency. It is not considered that a re-adoption would affect the applicability of either previous or future matters.

### **Adoption of model byelaws**



- 2.5 The Buckinghamshire area currently has existing byelaws from legacy council areas which deal with the hygiene practices and procedures in relation to some or all of the practices of acupuncture, electrolysis, ear piercing, tattooing, cosmetic piercing (piercing of the body including the ear) and semi-permanent skin-colouring including micro pigmentation, semi-permanent make-up and temporary tattooing. These are not however consistent across the whole of the Council area.
- 2.6 A draft byelaw based on the consolidated set of model byelaws which has been produced by the Department of Health appears at Appendix 1 and covers the practices of acupuncture, electrolysis, ear piercing, tattooing, cosmetic piercing (piercing of the body including the ear) and semi-permanent skin-colouring including micro pigmentation, semi-permanent make-up and temporary tattooing.
- 2.7 It is recommended that all existing byelaws from the legacy council areas in relation to semi-permanent skin-colouring and cosmetic piercing, acupuncture, ear-piercing, electrolysis and tattooing or related are revoked and replaced by the consolidated set of model byelaws for the Buckinghamshire Council area.

### 3. Other options considered

- 3.1 Where relevant sections of the Act have been adopted, it is a legal requirement for operators to register with the local authority within which the business operates. Each legacy area currently has byelaws to ensure the safe and hygienic practice of skin piercing. However, these don't all provide for current trends towards cosmetic body piercing and the application of semi-permanent skin colouring. By adopting sections 14 to 17 across the whole Council area all aspects of skin piercing will be covered by the requirement for registration and any adopted consolidated Byelaws will then allow the checks by officers to ensure safe practice. If sections 14-17 of the Act and then the consolidated byelaws are not adopted, then there may be some members of the public who would not be adequately protected from unregistered businesses.
- 3.2 By extending the range of activities that come within the registering regime, greater protection from the transmission of blood borne virus infections can be provided and improved enforcement provisions adopted.

### 4. Legal and financial implications

- 4.1 The Local Government (Miscellaneous Provisions) Act 1982 sets out the power to adopt byelaws under the Act whilst Section 236 of the Local Government Act 1972 sets out the process for the confirmation of the byelaws to be adopted.

- 4.2 The Act also sets out the process for implementation of the registration requirements in sections 14-17 of the Act. As this requires a lead in time the Byelaws should only be adopted once the adoption of sections 14-17 has been completed.
- 4.3 As part of the adoption and confirmation processes for Byelaws, the local authority is required to publish public notices as a one off exercise in local newspapers.
- 4.4 Whilst the adoption and implementation processes for both the requirement to register business and Byelaws will incur a cost to the local authority, this will be met from within existing budgets.
5. Corporate implications
- 5.1 The adoption of full registration requirements and new byelaws covering all aspects of skin piercing fits well with Buckinghamshire Council's Corporate Plan, particularly in relation to improving health and wellbeing and reducing the gap in health outcomes. By extending the range of skin piercing activities covered by a registration scheme, residents will be better protected from the transmission of blood-borne viruses potentially associated with skin piercing.
6. Local councillors, community boards consultation & views
- 6.1 The recommendations in this report are not specific to any one area in Buckinghamshire and so no specific local councillor or community board engagement has been carried out.
7. Consultation and communication
- 7.1 If adopted, as well as the statutory requirements such policy changes will be publicised on the authority's web pages and existing businesses notified. Existing skin piercing businesses have already been notified of the potential change in policy as part of communication relating to the harmonisation of the registration fees.
8. Next steps and review
- 8.1 If approved by Full Council on 21<sup>st</sup> September 2022, the statutory implementation process after adoption of the registration requirements will be completed, new registration requirements policies will be created/extended pending formal implementation and related byelaws for cosmetic piercing, semi-permanent skin-colouring, acupuncture, ear-piercing, electrolysis and tattooing will be drawn up in line with the consolidated model byelaws (appendix 1). An application to the Secretary of State will be made for confirmation of such byelaws covering the

Buckinghamshire Council area and that once confirmed, related existing legacy byelaws will be revoked.

9. Background papers

9.1 None

10. Your questions and views (for key decisions)

10.1 If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the democratic services team. This can be done by telephone 01494 732057 or email [ian.snudden@buckinghamshire.gov.uk](mailto:ian.snudden@buckinghamshire.gov.uk)

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# Model Byelaws Acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis

Byelaws for the purposes of securing the cleanliness of premises registered under sections 14(2) or 15(2) or both of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and of persons registered under sections 14(1) or 15(1) or both of the Act and persons assisting them and of securing the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis, or any two or more of such practice and businesses made by in pursuance of sections 14(7) or 15(7) or both of the Act.

## Interpretation

1.—(1) In these byelaws, unless the context otherwise requires—

“The Act” means the Local Government (Miscellaneous Provisions) Act 1982;

“client” means any person undergoing treatment;

“hygienic piercing instrument” means an instrument such that any part of the instrument that touches a client is made for use in respect of a single client, is sterile, disposable and is fitted with piercing jewellery supplied in packaging that indicates the part of the body for which it is intended, and that is designed to pierce either—

(a) the lobe or upper flat cartilage of the ear, or

(b) either side of the nose in the mid-crease area above the nostril;

“operator” means any person giving treatment, including a proprietor;

“premises” means any premises registered under sections 14(2) or 15(2) of the Act;

“proprietor” means any person registered under sections 14(1) or 15(1) of the Act;

“treatment” means any operation in effecting acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis;

“the treatment area” means any part of premises where treatment is given to clients.

(2) The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2.—(1) For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that—

- (a) any internal wall, door, window, partition, floor, floor covering or ceiling is kept clean and in such good repair as to enable it to be cleaned effectively;
- (b) any waste material, or other litter arising from treatment is handled and disposed of in accordance with relevant legislation and guidance as advised by the local authority;
- (c) any needle used in treatment is single-use and disposable, as far as is practicable, or otherwise is sterilized for each treatment, is suitably stored after treatment and is disposed of in accordance with relevant legislation and guidance as advised by the local authority;
- (d) any furniture or fitting in premises is kept clean and in such good repair as to enable it to be cleaned effectively;
- (e) any table, couch or seat used by a client in the treatment area which may become contaminated with blood or other body fluids, and any surface on which a needle, instrument or equipment is placed immediately prior to treatment has a smooth impervious surface which is disinfected—
  - (i) immediately after use; and
  - (ii) at the end of each working day.
- (f) any table, couch, or other item of furniture used in treatment is covered by a disposable paper sheet which is changed for each client;
- (g) no eating, drinking, or smoking is permitted in the treatment area and a notice or notices reading “No Smoking”, and “No Eating or Drinking” is prominently displayed there.

(2)(a) Subject to sub-paragraph (b), where premises are registered under section 14(2) (acupuncture) or 15(2) (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the 1982 Act, a proprietor shall ensure that treatment is given in a treatment area used solely for giving treatment;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

(3)(a) Subject to sub-paragraph (b), where premises are registered under section 15(2) (tattooing, semi-permanent skin-colouring and cosmetic piercing) of the 1982 Act, a proprietor shall ensure that the floor of the treatment area is provided with a smooth impervious surface;

(b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.

**3.—(1)** For the purpose of securing the cleansing and so far as is appropriate, the sterilization of needles, instruments, jewellery, materials and equipment used in connection with treatment—

(a) an operator shall ensure that—

(i) any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in treatment—

(aa) is clean and in good repair and, so far as is appropriate, is sterile;

(bb) has not previously been used in connection with another client unless it consists of a material which can be and has been adequately cleansed and, so far as is appropriate, sterilized.

(ii) any needle, metal instrument, or other instrument or equipment used in treatment or for handling such needle, instrument or equipment and any part of a hygienic piercing instrument that touches a client is sterile;

(iii) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;

(iv) any dye used for tattooing or semi-permanent skin-colouring is sterile and inert;

(v) any container used to hold dye for tattooing or semi-permanent skin-colouring is either disposed of at the end of each treatment or is cleaned and sterilized before re-use.

(b) a proprietor shall provide—

(i) adequate facilities and equipment for—

(aa) cleansing; and

(bb) sterilization, unless only pre-sterilized items are used.

(ii) sufficient and safe gas points and electrical socket outlets;

(iii) an adequate and constant supply of clean hot and cold water on the premises;

(iv) clean and suitable storage which enables contamination of the articles, needles, instruments and equipment mentioned in paragraphs 3(1)(a)(i), (ii), (iii), (iv) and (v) to be avoided as far as possible.

**4.—(1)** For the purpose of securing the cleanliness of operators, a proprietor—

(a) shall ensure that an operator—

(i) keeps his hands and nails clean and his nails short;

(ii) keeps any open lesion on an exposed part of the body effectively covered by an impermeable dressing;

(iii) wears disposable examination gloves that have not previously been used with another client, unless giving acupuncture otherwise than in the circumstances described in paragraph 4(3);

- (iv) wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with another client;
  - (v) does not smoke or consume food or drink in the treatment area; and
- (b) shall provide—
- (i) suitable and sufficient washing facilities appropriately located for the sole use of operators, including an adequate and constant supply of clean hot and cold water, soap or detergent; and
  - (ii) suitable and sufficient sanitary accommodation for operators.
    - (2) Where an operator carries out treatment using only a hygienic piercing instrument and a proprietor provides either a hand hygienic gel or liquid cleaner, the washing facilities that the proprietor provides need not be for the sole use of the operator.
    - (3) Where an operator gives acupuncture a proprietor shall ensure that the operator wears disposable examination gloves that have not previously been used with another client if—
      - (a) the client is bleeding or has an open lesion on an exposed part of his body; or
      - (b) the client is known to be infected with a blood-borne virus; or
      - (c) the operator has an open lesion on his hand; or
      - (d) the operator is handling items that may be contaminated with blood or other body fluids.

**5.** A person registered in accordance with sections 14 (acupuncture) or 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act who visits people at their request to give them treatment should observe the requirements relating to an operator in paragraphs 3(1)(a) and 4(1)(a).



6.The byelaws listed in schedule 1 of these byelaws are revoked.

COUNCIL’S SIGNATURE

COUNCIL’S SEAL

The foregoing byelaws are hereby confirmed by the Secretary of State for Health  
on \_\_\_\_\_ and shall come into operation on \_\_\_\_\_

Member of the Senior Civil Service  
Department of Health

## **Schedule 1 Revoked Byelaws**

### **Please list all byelaws to be revoked**

1. The byelaws relating to tattooing which were made by Wycombe District Council on 9<sup>th</sup> May 1986 and confirmed by the Secretary of State for Social Services on 14<sup>th</sup> July 1986 and originally came into force on 1<sup>st</sup> September 1986 are revoked.
2. The byelaws relating to acupuncture which were made by Wycombe District Council on 9<sup>th</sup> May 1986 and confirmed by the Secretary of State for Social Services on 14<sup>th</sup> July 1986 and originally came into force on 1<sup>st</sup> September 1986 are revoked.
3. The byelaws relating to ear piercing and electrolysis which were made by Wycombe District Council on 9<sup>th</sup> May 1986 and confirmed by the Secretary of State for Social Services on 14<sup>th</sup> July 1986 and originally came into force on 1<sup>st</sup> September 1986 are revoked.
4. The byelaws relating to ear piercing and electrolysis which were made by Aylesbury Vale District Council on 25<sup>th</sup> May 1984 and confirmed by the Secretary of State for Social Services on 7<sup>th</sup> September 1984 and originally came into force on 1<sup>st</sup> November 1984 is revoked.
5. The byelaws relating to ear piercing and electrolysis which were made by Aylesbury Vale District Council on 25<sup>th</sup> May 1984 and confirmed by the Secretary of State for Social Services on 7<sup>th</sup> September 1984 and originally came into force on 1<sup>st</sup> November 1984 is revoked.
6. The byelaws relating to acupuncture which were made by Aylesbury Vale District Council on 25<sup>th</sup> May 1984 and confirmed by the Secretary of State for Social Services on 7<sup>th</sup> September 1984 and originally came into force on 1<sup>st</sup> November 1984 is revoked.
7. The byelaws relating to tattooing which were made by Aylesbury Vale District Council on 25<sup>th</sup> May 1984 and confirmed by the Secretary of State for Social Services on 7<sup>th</sup> September 1984 and originally came into force on 1<sup>st</sup> November 1984 is revoked.
8. The byelaws relating to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis which were made by Chiltern District Council on 6<sup>th</sup> July 2014 and confirmed by the Secretary of State for Social Services on 6<sup>th</sup> June 2014 and originally came into force on 6<sup>th</sup> June 2014 are revoked.

## **NOTE – THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS**

Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on premises. Section 16(9) of the Local Government (Miscellaneous Provisions) Act 1982 provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act. A person who contravenes section 16(9) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale (see section 16(10)).

Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 also provides that any person who contravenes these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. If a person registered under Part VIII of the Act is found guilty of contravening these byelaws the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of the person's registration. A court which orders the suspension of or cancellation of a person's registration may also order the suspension or cancellation of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence for the person charged under the relevant sub-sections of section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Nothing in these byelaws extends to the practice of acupuncture, or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis by or under the supervision of a person who is registered as a medical practitioner, or to premises in which the practice of acupuncture, or business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis is carried out by or under the supervision of such a person.

Nothing in these byelaws extends to the practice of acupuncture by or under the supervision of a person who is registered as a dentist, or to premises in which the practice of acupuncture is carried out by or under the supervision of such a person.

The legislative provisions relevant to acupuncture are those in section 14. The provisions relevant to treatment other than acupuncture are in section 15.

The key differences in the application of requirements in respect of the various treatments are as follows:

*The references in the introductory text to provisions of section 14 (acupuncture) of the Local Government (Miscellaneous Provisions) Act 1982 **only apply to acupuncture.***

*The references in the introductory text to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Local Government (Miscellaneous Provisions) Act 1982 **do not apply to acupuncture.***

*The references in paragraph 1(1) in the definition of "premises" to provisions of section 14 (acupuncture) **only apply to acupuncture.***

*The references in paragraph 1(1) in the definition of “premises” to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) do not apply to acupuncture.*

*The requirement in paragraph 2(2) that treatment is given in a treatment area used solely for giving treatment applies to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis but not to ear-piercing or nose-piercing using a hygienic piercing instrument.*

*The requirement in paragraph 2(3) that the floor of the treatment area be provided with a smooth impervious surface applies to tattooing, semi-permanent skin-colouring and cosmetic piercing but not to acupuncture or electrolysis or ear-piercing or nose-piercing using a hygienic piercing instrument.*



## Report to Licensing (Regulatory) Committee

**Date:** 26<sup>th</sup> July 2022

**Title:** Harmonisation of animal licensing fees and charges

**Author(s):** Lindsey Vallis, Head of Licensing, Cemeteries & Crematoria Services

**Recommendation:**

1. To approve the proposed animal licensing fees and charges set out in Appendix 1 for Buckinghamshire. Once approved new fees and charges will come into effect from the 29<sup>th</sup> August 2022.

### 1. Background

- 1.1 In accordance with the Animal Welfare Act 2006, Buckinghamshire Council, in its role as Licensing Authority, is responsible for authorising businesses that provide animal activities and ensuring that these activities meet statutory licensing and welfare standards that are prescribed by DEFRA. In addition, the Council is also responsible for licensing kept animals that are defined as dangerous wild animals under the Dangerous Wild Animals Act 1976 and for the licensing of zoos under the Zoo Licensing Act 1981.
- 1.2 The Council is currently operating different charging structures for these licence activities across the legacy council areas. This report seeks approval of a single harmonised fee structure for animal licensing activities across the Buckinghamshire Council area.

### 2. Main content of report

#### 2.1 Statutory provisions

- 2.2 The relevant statutory provisions that enable the local authority to set and recover fees for animal licensing activities are set out within the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, made under the Animal Welfare Act 2006, the dangerous Wild Animals Act 1976 and the Zoo Licensing Act 1981. DEFRA and the Local Government Animal Welfare Group also issue guidance to local authorities to support fee setting.

- 2.3 **Animal Welfare Act 2006 and Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018**
- 2.4 The Licensing Authority is responsible for issuing licences to an individual (or ‘operator’) under the Animal Welfare Act and associated regulations, including for the following primary activities, providing or arranging provision of boarding for cats and dogs, the breeding of dogs for commercial purposes, keeping or training animals for exhibition, selling animals as pets and hiring out horses. The legislation and associated statutory guidance (produced by DEFRA and which the Council must operate to) are very prescriptive in nature and have become increasingly so in recent years as growing public concern and awareness around animal welfare issues has been reflected in statute. There are very significant obligations placed on Licensing Authorities to ensure that licenced premises meet at least the minimum standards of animal welfare required.
- 2.5 On the 1<sup>st</sup> April 2022 Buckinghamshire Council licensed 172 operators under the Regulations; 16 dog kennels, 24 catteries, 58 animal boarders (dog and cat), 9 dog day care providers, 19 dog breeders, 14 pet shops, 20 riding establishments and 12 animal exhibitors.
- 2.6 Under Regulation 13 of the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018, local authorities can charge fees for:
- a) considering an application, including any inspections,
  - b) compliance checks on existing licence holders, this includes the costs of inspections
  - c) enforcement costs against an unlicensed operator doing licensable activities
  - d) compiling and submitting data needed by the Secretary of State
- 2.7 **Dangerous Wild Animals Act 1976**
- 2.8 The Licensing Authority is responsible for issuing licences to private individuals (the ‘keeper’ of the animal) that keep certain species of dangerous wild animals with the intention of ensuring that they do so in circumstances that create no risk to the public and safeguard the welfare of the animals. The Council has statutory duties to licence the keeping of any animal controlled by the Act. This requirement does not apply to dangerous wild animals kept in a zoo or a circus, nor to premises licensed for selling animals as pets, or a place which is a designated establishment within the meaning of the Animals (Scientific Procedures) Act 1986. The types of animals that require a licence are specified within the Schedule to the Act and include primates, wild cats and dogs, bears, ostriches, crocodiles and alligators and some species of snakes, lizards, scorpions and spiders.

- 2.9 In April 2022 Buckinghamshire Council licensed 3 dangerous wild animal keepers to keep capuchins, lemurs, black buck and ostrich. Previously the authority has licensed wild Boar, Chinese freshwater alligators, African servals and savannah cats.
- 2.10 Section 1(2)(e) of the Act states that a local authority shall not grant a licence unless the application for it is ‘accompanied by such fee as the authority may stipulate (being a fee which is in the authority’s opinion sufficient to meet the direct and indirect costs which it may incur as a result of the application)’.
- 2.11 **Zoo Licensing Act 1981**
- 2.12 The Licensing Authority is responsible for issuing zoo licences under the Zoo Licensing Act 1981 to anyone who keeps an establishment where wild animals (as defined in Act) are kept for exhibition to the public, other than for purposes of a circus or pet shop, and the public have access with or without charge on seven days or more in a 12-month period.
- 2.13 On the first April 2022 Buckinghamshire Council licensed 3 zoos. All are small scale specialist collections and as such have been given statutory dispensation by the Animal and Plant Health Agency (APHA) which reduces the requirements under the Act. Inspections of zoos with an APHA dispensation are carried out by a licensing officer and an APHA nominated expert veterinarian.
- 2.14 Under section 15 of the Act local authorities have the power to charge such reasonable fees as they may determine in respect of applications for the grant, renewal, or transfer of licences and subsequent action. Local authorities may also charge for reasonable expenses incurred by them in respect of inspections. This charge includes both the costs incurred by the local authority in appointing their own inspectors and the costs incurred in meeting the cost of services and expenses of those inspectors appointed by the Secretary of State (where required). Under section 15(5) the local authority is required to ensure that the amount of all fees and other sums charged in a particular year is sufficient to cover the reasonable expenditure incurred by the authority in that year by virtue of the Act.
- 2.15 **Harmonisation of fees**
- 2.16 There are currently historic differences in the level of fees that are charged across the legacy council areas which should be harmonised to provide a consistent approach and level of service across the county.
- 2.17 The Council’s constitution provides delegated responsibility to officers to set fees but recognises that it may be appropriate, under consultation with the portfolio holder, to refer a decision to the relevant Committee. Given the level of the changes proposed it is considered that Licensing Committee should review the proposed fees and charges and decide on the level to be set. There is no statutory requirement for public consultation when setting fees under the Acts and the proposed fees and charges are included within this report solely for the purposes of consideration and

approval by the Committee. Fees should be set at a level to ensure full cost recovery whilst also being fair and providing value for money for the businesses. Councils are required to take a reasonable and proportionate approach and should aim to set a fee level that is sufficient to cover the cost, but not make a surplus.

- 2.18 The general methodology behind the review of these fees is determined by the document 'Open for business: Local Government Association (LGA) guidance on locally set licence fees'. The core principles in the LGA guidance are that fees should be non-discriminatory; justified; reasonable and proportionate to the cost of the processes associated with a licensing scheme; clear; objective; made public in advance; transparent; and accessible. It is also an accepted principle that licensed activities should be funded on a cost-recovery basis, paid for by those benefiting from the licensed activity, rather than drawing on the public purse.
- 2.19 The LGA guidance acknowledges that Councils are free to design their licensing service in a manner that best serves the needs of their community and recover the costs accordingly. It provides a number of elements that Councils may wish to consider. These include administration, visits, third party costs, liaison with interested parties, management costs, local democracy costs, staffing on-costs, development, determination and production of licensing policies, web material, advice and guidance, setting and reviewing fees, monitoring and inspection visits and maintaining statutory registers.
- 2.20 A comprehensive review of the cost of delivering animal licensing services has been carried out and new fees are proposed that reflect both the full staffing costs of running the service as well as the support service costs. The proposed fees and charges are provided at Appendix 1.
- 2.21 The review considered the average time spent on each regime activity and included receipt, review and validation of the application, research, travel, inspections (initial and mid-term) and report writing as well as issue of the licence documents. Compliance and enforcement costs for administering the regime were also attributed e.g., for complaint investigations and advice requests. The vast majority of this activity is carried out with operators that are licensed with the Council rather than un-licensed operators. As required, this review has also factored in recoverable costs incurred by the Council such as Democratic Services and Committees, corporate governance, IT provision, administration, supplies and services etc.
- 2.22 Some animal licensing inspections are undertaken alongside an expert veterinarian including for operators breeding dogs (at first inspection), hiring out horses and those keeping a dangerous wild animal. The services of a vet are also used occasionally on an ad-hoc basis, as required to support decision-making. Where the services of a vet are required, the third-party vet fees are separated from the application fee and reflect the cost of the vet visit solely for that particular operator.



This is considered fairer to businesses than including the vet fee within the application fee, as inspections of smaller operators and those that are more compliant tend to require less input and time from a vet than a larger, and/or non-compliant business and will be cheaper. The Licensing Service sources the approved vet and pays the practice directly. The fee is then recovered from the operator/keeper.

- 2.23 The duration of an animal licence ranges from 1-3 years dependent upon the level of compliance and welfare standards adopted by the business. All operators are subject to an inspection prior to the grant of a licence and are then subject to one unannounced visit within the term of the licence. Premises with lower levels of compliance at inspection are subject to additional scrutiny during the licence period which can be by way of ad-hoc visits and/or contact. In addition, officers will carry out additional visits to a licensed premises as a result of intelligence or information received and at the request of an operator to vary their licence e.g., to increase animal numbers or species. Officers also work closely with current and future business operators to support and advise them regarding statutory requirements and compliance.
- 2.24 Prior to the formation of Buckinghamshire Council in April 2020 animal licensing was delivered in different ways and within different services dependent on legacy area, with Environmental Health Services historically responsible in the legacy Wycombe area and Licensing Services delivering the regimes in the legacy Aylesbury and Chiltern and South Bucks areas. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 introduced new prescriptive requirements for the qualification of officers undertaking animal licensing activities which requires that they undertake a formal qualification and produce a portfolio of work-based experience prior to being considered suitably qualified. These requirements have been subject to a grace period up to 1<sup>st</sup> October 2022 to enable local authorities to arrange and undertake training. Since the new Council was formed and as part of the harmonisation of licensing services, responsibility for animal licensing moved wholly to Licensing Services from 1<sup>st</sup> October 2021 and we have been working to train and qualify additional specialist staff prior to the 1<sup>st</sup> October 2022. Alongside this we have also sought to centralise the information we hold on animal licences and to improve and align processes and ways of working, supported by the new Licensing Services structure. Work is currently underway to create new Buckinghamshire Council webpages and centralised application forms for customers. Harmonising fees and charges across the legacy areas also supports this activity.
- 2.25 There is limited clarity on the historic budget position for animal licensing as financial information prior to the formation of the new Council is not easily available. In addition, animal licensing continued to be delivered in different Directorates up until October 2021. The proposed fees have been set based on an understanding of the

existing service activity and costs, particularly in the legacy Aylesbury Vale area where information was more available, and the anticipated activity and costs going forward. Recent changes to the statutory guidance for animal licensing has resulted in changes and additions to the DEFRA prescribed inspection forms that must be completed on site which has also fed into the fee review process.

- 2.26 Fees should be reviewed on an annual basis. The majority of animal licensing activity is carried out under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 and the current legacy area fees would have been set following the implementation of these Regulations in October 2018. Since fees were set by the legacy councils, increases appear to have been applied in line with inflation only rather than because of systematic review. Generally, fees are subject to full service review on a 3 year basis but as work to harmonise the animal licensing activity across Buckinghamshire commenced only relatively recently, this work was not undertaken in 2021. The legislation and guidance were new to local authorities in 2018 at the point that the Regulations were implemented, and as such initial fees would have been set based on the anticipated costs that were considered likely to be incurred. We now have the benefit of administering the regime across the Council area since October 2021 and are in a better position to set fees based on the known costs and anticipated whole Service budget position.
- 2.27 Benchmarking of the proposed fees was undertaken with neighbouring local authorities, and with other licensing authorities where fee review had taken place since the introduction of the legislation in 2018. Current fees charged in the legacy district council areas, and the proposed fees and benchmarking against other local authority areas is attached at Appendix 2 and shows that there is significant disparity across local authority areas in terms of the fee levels charged. It appears that many local authorities, as was the case for the legacy Buckinghamshire council areas, have not carried out full fee review since the Regulations were introduced in 2018. Animal licensing is often a low volume activity for local authorities, and many have only a very small number of operators. This could, in part, explain the lack of fee review that has taken place.
- 2.28 Of the 13 authorities reviewed as part of the benchmarking exercise, 4 (Central Beds, Slough, South and Vale and Cherwell) have set all of their animal fees at the same level across the different regimes. There is a considerable difference in the amount of work and associated activity required for each regime (based on time taken and volume of premises). Where fees are all the same level across the regimes it is indicative of fees that were probably set at the start of the legislative regime, when limited information was available to inform setting, and have then not been reviewed since. As it appears that many local authorities have not reviewed their fees since the introduction of the legislation in 2018, the benchmarking exercise was extended to include authorities where an internet search indicated that review had

taken place (Dacorum, Royal Borough of Windsor and Maidenhead, Westminster, Herefordshire and Richmond) to provide comparative figures. A comparison of the proposed fees and charges with authorities that have reviewed their fees since 2018 is attached as Appendix 3.

- 2.29 The proposed Buckinghamshire Council fees have increased considerably on what was previously set for the legacy Aylesbury Vale and Chiltern and South Bucks areas, largely because of no significant review occurring of the regime since its initial introduction in 2018 when fee setting would have been wholly anticipatory. Whilst the fees are also an increase on what was originally charged in the legacy Wycombe area (where all regime fees were previously charged at £520) the increase, at an average of 14%, is less significant than for the other areas. For dangerous wild animal and zoo licences the proposed fees are 16% and 22% lower respectively than what must be paid currently in the Wycombe area. Where fees have been reviewed in other local authority areas, generally the proposed fees for Buckinghamshire compare relatively favourably, with the majority of the proposed fees lower than those in place in Dacorum, Royal Borough of Windsor and Maidenhead, Westminster, Herefordshire and Richmond.
- 2.30 Buckinghamshire is now a reasonably large animal licensing authority and, it is proposed that a full-service review of fees is carried out on a rolling three-year basis in line with the maximum 3-year licence duration period, thus affording the opportunity to reconcile any surplus or deficit accrued. A lighter touch fee review will also be undertaken by the Service annually. Where appropriate an increase will be applied to the fee in line with RPI to recover related increased costs to the Council. If another inflationary measure is prescribed by Government in the future, then this would be applied to the fee to recover related increased costs to the Council

### **3. Next steps and review**

- 3.1 If approved, the fees will come into effect on the 29<sup>th</sup> August 2022 to provide time for the Licensing Service to notify current licence holders of the change in advance of it coming into effect, and to make the necessary website and system changes. Most animal licence renewal applications are received by the Licensing Service in September and October therefore harmonising fees prior to this peak in demand will help to provide a consistent service across the County area and ensure that the Council is effectively covering the costs of the activity and service provided.
- 3.2 The Animal Welfare (Kept Animals) Bill is currently progressing through Parliament and is at report stage prior to third reading in the House of Commons. If the Bill becomes law as drafted it will introduce further legal requirements and activities which are likely to fall to local authorities to carry out. These include plans to tackle

puppy smuggling, compulsory cat microchipping, the expansion of existing licensing regimes to include animal sanctuaries and rescue centres for cats, dogs and horses, and changes to dangerous wild animal legislation on the keeping of primates which will mean a new licensing regime in this area. The Service continues to monitor the progress of the Bill, as if it becomes law there could be a need for significant additional skilled staff resource requirements, as well as the introduction of new inspection and fee regimes.

#### **4. Other options considered**

- 4.1 None. The setting of fees is a statutory requirement. Animal licensing fees are required to be cost neutral and a reasonable fee must be charged to cover the cost of the service. The creation of the new Council area requires that a single set of fees should be charged to all licence holders.

#### **5. Legal and financial implications**

Animal licensing legislation allows for the recovery of a reasonable fee for the grant of a licence. The fees must be set at a level which ensures that the Council does not make a profit and any deficit or surplus should be taken into consideration in subsequent fee reviews, to be recovered or refunded over a rolling three-year cycle.

#### **6. Corporate implications**

- 6.1 Property – N/A

- 6.2 HR – N/A

- 6.3 Climate change – N/A

- 6.4 Sustainability – N/A

Equality – N/A Data – N/A

- 6.5 Value for money – the Licensing Service has ensured that the costs involved in delivering the service are kept to a minimum. As a result of harmonisation work within the Service for animal licensing activities it may be possible to realise additional efficiencies going forward. This will be captured as part of the rolling fee review process.

##### **Key documents:**

“Open for Business”, LGA Guidance on locally set fees:

<https://www.local.gov.uk/open-business-lga-guidance-locally-set-licence-fees>

### Appendix 1 - proposed fees and charges

activity	proposed fee
Arrange/provide for the boarding of dogs or cats	£ 581
Arranger - additional host	£ 145
Cattery	£ 581
Dog breeding - less than 10 dogs	£ 596
Dog breeding - 10 -19 dogs	£ 781
Dog breeding - 20 or more dogs	£ 846
Dog day care	£ 627
Dangerous wild animal (DWA) - new application	£ 598
Dangerous Wild animal (DWA) - renewal application	£ 451
Exhibition of animals	£ 582
Homeboarding - dog	£ 581
Kennel	£ 596
Pet Sales (one category of animal - mammals, reptiles, birds, fish)	£ 598
Pet Sales (per additional category of animal - mammals, reptiles, birds, fish)	£ 87
Hiring of horses - less than 10 horses	£ 574
Hiring of horses - 10-19 horses	£ 732
Hiring of horses - 20 or more horses	£ 866
hiring of horses - 40 or more horses	£ 1,119
Licence variation - paperwork only	£ 29
Licence variation inspection and paperwork	£ 145
Multiple activities (per additional licensable activity)	£ 251
Zoo - new application	£ 969
Zoo - renewal application	£ 991
Administration activity e.g. replacement paper licence	£ 29
<b>Vet fees are charged in addition to application fees (where applicable)</b>	
<b>Where an expert opinion is required to aid officer decision making the Council can appoint a vet to assist with this process and recharge this to the applicant</b>	

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Appendix 2 - fee benchmarking with other local authorities

	Licence maximum period	proposed Bucks	Aylesbury	Aylesbury (added if more than one activity)	Chiltern & South Bucks	Wycombe	West Northants	Milton Keynes	Central Beds	Dacorum	Three Rivers (1 year licence)	Slough	Windsor and Maidenhead	Wokingham	South and Vale	Cherwell	Westminster	Herefordshire	Richmond		
date last reviewed			2018	2018	known	known				2019/20			2022/23					2020	2022/23	2022/23	
Arrange/provide for the boarding of dogs or cats	3 years	581																	652		
Arranger - additional host	3 years	145																			
Exhibition of animals	3 years	582	234	163	265	520	412		470	405	523	268		590	526	393		780	652	495	
Cattery	3 years	581	368	230	362	520	448	510	470	639	315	390	678	472	526	393		1214	776	787	
Dog day care	3 years	627	368	230	362	520	448	510	470	639	295	390	435	590	526	393		1273	719	450	
Dog breeding - less than 10 dogs	3 years	596	335	208	161	520	464	708	470	641	344	390	678	590	526	393		1214	902	654	
Dog breeding - 10-19 dogs	3 years	781																		959	
Dog breeding - 20 or more dogs	3 years	846																		1014	
Kennel	3 years	596	368	230	362	520	448	510	470	639	315	390	678	472	526	393		1214	776	787	
Home Boarding - dogs	3 years	581	345	165	294	520	412	641	470	639	255	390	350	472	526	393		1295	575	540	
Hiring of horses - less than 10 horses	3 years	574	366	315	161	520	597	356		515	201	390	751	622	526	393		1404	786	1047	
Hiring of horses - 10-19 horses	3 years	732	412										926							841	1147
Hiring of horses - 20 or more horses	3 years	866	455																	952	1247
Hiring of horses - 40 or more horses	3 years	1119																		1009	1297
Pet Sales (one category of animal - mammals, reptiles, birds, fish)	3 years	598	368	230	362	520	515	695	470	639	315	390	678	472	526	393		1311	652	670	
Pet Sales (per additional category of animal - mammals, reptiles, birds, fish)	3 years	87																			
Multiple activities (per additional licensable activity)	3 years	251																			
Dangerous wild animal (DWA) - new application	2 years	598	422		400	710			276	223	187	400	618	612	460	291		1035		926	
Dangerous Wild animal (DWA) - renewal application	2 years	451	269		150	453				95								347		793	
Zoo - new application	4 years	969	686		n/a	1236			393	50	1876		757	2066	1252	595					
Zoo - renewal application	6 years	991	686																		
Licence variation - paperwork only		29																			
Licence variation inspection and paperwork		145	118																		
Administration activity e.g. replacement paper licence		29	27																		26

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**Appendix 3 - comparison of proposed fees with local authorities which have reviewed their fees since 2018**

	Licence maximum period	proposed Buckinghamshire	Dacorum	% higher or lower	Windsor and Maidenhead	% higher or lower	Westminster	% higher or lower	Herefordshire	% higher or lower	Richmond	% higher or lower
<b>date last reviewed</b>			<b>2019/20</b>		<b>2022/23</b>		<b>2020</b>		<b>2022/23</b>		<b>2022/23</b>	
Arrange/provide for the boarding of dogs or cats	3 years	581							652	-11		
Arranger - additional host	3 years	145										
Exhibition of animals	3 years	582	405	30			780	-25	652	-11	495	18
Cattery	3 years	581	639	-10	678	-14	1214	-52	776	-25	787	-26
Dog day care	3 years	627	639	-2	435	44	1273	-51	719	-13	450	39
Dog breeding - less than 10 dogs	3 years	596	641	-8	678	-12	1214	-51	902	-34	654	-9
Dog breeding - 10-19 dogs	3 years	781							959	-19		
Dog breeding - 20 or more dogs	3 years	846							1014	-17		
Kennel	3 years	596	639	-7	678	-12	1214	-51	776	-23	787	-24
Home Boarding - dogs	3 years	581	639	-10	350	66	1295	-55	575	1	540	8
Hiring of horses - less than 10 horses	3 years	574	515	10	751	-24	1404	-59	786	-27	1047	-45
Hiring of horses - 10-19 horses	3 years	732			926	-21			841	-13	1147	-36
Hiring of horses - 20 or more horses	3 years	866							952	-9	1247	-31
Hiring of horses - 40 or more horses	3 years	1119							1009	11	1297	-14
Pet Sales (one category of animal - mammals, reptiles, birds, fish)	3 years	598	639	-7	678	-12	1311	-54	652	-8	670	-11
Pet Sales (per additional category of animal - mammals, reptiles, birds, fish)	3 years	87										
Multiple activities (per additional licensable activity)	3 years	251										
Dangerous wild animal (DWA) - new application	2 years	598	187	69	612	-2	1035	-42			926	-35
Dangerous Wild animal (DWA) - renewal application	2 years	451					347	30			793	-43
Zoo - new application	4 years	969	1876	-94	757	28						
Zoo - renewal application	6 years	991										
Licence variation - paperwork only		29										
Licence variation inspection and paperwork		145										
Administration activity e.g. replacement paper licence		29										

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