



TAXI AND GENERAL COMMITTEE – 26TH MARCH 2021

SUBJECT: ZOO LICENSING FEES

REPORT BY: INTERIM CORPORATE DIRECTOR COMMUNITIES

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1. PURPOSE OF REPORT

- 1.1 To recommend the level of fees to be charged for a Zoo licence. The application for a licence is expected following the identification of a premises requiring a zoo licence in the borough.

2. SUMMARY

- 2.1 The Zoo Licensing Act 1981 requires that an establishment (except circus and licensed pet shop) where wild animals are kept for exhibition and members of the public have access, with or without charge for admission, on seven days or more in any period of 12 consecutive months to be licensed.
- 2.2 Officers have undertaken a fee setting exercise in respect of Zoo licences in respect of this and future applications.

3. RECOMMENDATIONS

- 3.1 That Members consider the information provided in the report and adopt the proposed fees for zoo licences as detailed in Appendix 1 of the report with immediate effect.

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 To set a fee for Zoo licences in order that a reasonable level of costs incurred by the Council in administering the licensing service are recovered.

5. THE REPORT

- 5.1 The authority has a statutory duty to administer certain licences, registrations and permits. The review of fees charged, involves consideration of the cost to the Authority in providing the service. Some fees are set centrally by government, some permits

such as street collections for charities etc are free of charge and the remaining we can determine locally in order to recover the cost of providing that particular service.

- 5.2 The application for a licence is expected following receipt of a formal Notification of Intention to apply for a Zoo Licence.
- 5.3 There have been a number of important cases before the High Court regarding the setting of licensing fees and the Local Government Association (LGA) have issued guidance to local authorities, the latest in November 2015. The underlying principle in setting fees is that Councils must not use fees to make a profit or act as an economic deterrent to deter certain business types from operating in an area. Charges must be reasonable and proportionate to the cost of the processes associated with the licensing regime.
- 5.4 The all Wales Licensing Expert Panel devised a fee calculator toolkit that has been approved by the Directors of Public Protection in Wales. In principle the toolkit calculates two elements, which cover the costs to the authority for the provision of the service and the cost of processing and producing a licence. The cost of provision of the service increases proportionally dependant on the period of the licence, whereas the licence processing cost is not affected by the period of the licence. Normally all locally set Licensing fees are reviewed annually to recover reasonable costs of providing the service.
- 5.5 The toolkit spreadsheet comprises a number of worksheets covering several factors relevant to the calculation of fees as follows:
 - Cost summary – calculates the hourly rate chargeable for each officer based on the Council's agreed annual productive hours.
 - Other charges –
 - (i) Total charges for time based on functions associated with the service provision.
 - (ii) Total specific costs including surplus or deficits in provision of service, costs of changes/amendments to licences
 - (iii) Relevant applications, based on the number of renewal and new licences issued at the time of calculation.
- 5.6 As detailed in 5.3 above, the fees must be reasonable and proportionate to cover the cost of processing the procedures and formalities associated with the relevant licensing function, and they must accurately reflect the actual costs incurred by the Council. Having regard to case law the proposed fees have been calculated in two parts, A and B. Part A is to cover the direct costs associated with processing the application to the point where a decision is made, and if appropriate a licence is issued. This fee would be payable in full on submission of the application and is non-refundable.

Part B is to cover the ongoing costs associated with running the licensing function, including the supervision and monitoring of licensed premises and the enforcement activity for any unlicensed premises. This fee would only become payable if a licence is granted and would need to be paid before the licence becomes operational.

- 5.7 Section 15 of the Zoo Licensing Act 1981 deals with the financial aspects of the licensing and inspection system (grant, renewal and transfer of licences), issuing directions and disposing of animals. Section 9A refers to the procedure relating to a number of types of inspection required e.g, before the grant, refusal, renewal or significant alteration of licences; Section 10, periodical inspections; Section 11, special inspections; Section 12 informal inspections; Section 16E covers the welfare of animals following closure of a zoo and supervision of implementation of plans in relation to their future care or disposal.
- 5.8 Members will note that upon initial grant of licence, the duration of a licence is 4 years, thereafter, subsequent renewals are for a 6 year duration.
- 5.9 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 under sections 9A, 10(4)(a)(i), 11 and 12, and the costs incurred in meeting the cost of services and expenses of those inspectors appointed by the Secretary of State. The local authority may, if so requested by the zoo operator, accept payments by instalments.
- 5.10 Local authorities are also entitled to recover such costs as are reasonably incurred in issuing directions under the Act and exercising their duties for treating and disposing of animals in accordance with section 16E of the Act (the welfare of animals following closure of a zoo). These costs have been encompassed within the proposed calculation as being invoiced pro rata according to the officer time spent plus any additional veterinary fees according to the invoice. Similarly, special inspections are proposed to be invoiced in the same way. These will vary widely in terms of the costs to the authority as they may be undertaken for a number of reasons, e.g. an animal escape.
- 5.11 In the case of Veterinary inspections, local authorities are advised to negotiate rates for fees not exceeding those payable to persons on the Secretary of State's list.
- 5.12 Section 14 of the Zoo Licensing Act 1981 provides the Secretary of State with powers to relax the requirements of the act for a small zoo or for a zoo exhibiting only a small number of different kinds of animals. Section 14(1)(b) has been acknowledged within the calculation in **Appendix 1**. This Section allows the Secretary of State to issue a direction to the effect that either a periodical or special inspection or both (but not an informal or licence inspection) shall not be required, hence the fee is reduced. Section 14(2) allows the Secretary of State to direct that the periodical inspection is to be carried out only by the inspector or inspectors appointed and therefore this will be reflected by a reduced veterinary fee.
- 5.13 Section 9A(2) allows the local authority to use an inspection provided for under Section 10 (a periodical inspection) instead of section 9A (inspections before the grant, refusal, renewal or significant alteration of licences) where the Section 10 inspection is due within 12 months of when arrangements for the Section 9A inspection would be made. By making use of this power, the need for two inspections in close proximity, and associated costs, can be removed. Local authorities are encouraged to combine inspections in this way unless there are good reasons not to do so, and therefore combined inspections have been factored into the calculations which have been drafted.

5.14 Conclusion

The setting of a fee is required for the purposes of the Zoo Licensing Act 1981. The Authority is required to review its Licensing fees on an annual basis and has a duty to recover fees that are proportionate to the level of cost incurred in administering the licensing service. The proposed Fees for New, Renewal & Section 14 Dispensation, Transfer and treating and disposing of animals and the issue of Directions are reproduced for Members information at **Appendix 1**.

6. ASSUMPTIONS

6.1 No assumptions have been made in the preparation of this report.

7. LINKS TO RELEVANT COUNCIL POLICIES

7.1 There are a number of policies and conditions of licence relevant to the types of licences covered in this report.

7.2 Corporate Plan 2018-2023.

The aim of licensing is generally public safety and protection and to ensure a fair and level market place for licensable activities.

The report impacts on the following Corporate Well-being Objectives, which are:

Objective 1 - Improve education opportunities for all

Objective 2 - Enabling employment

8. WELL-BEING OF FUTURE GENERATIONS

8.1 The Authority has a duty to improve the social, economic, environmental and cultural well-being of Wales. The areas covered in this report contribute to the following Well-being Goals

- A prosperous Wales
- A resilient Wales
- A more equal Wales
- A globally responsible Wales
- A Wales of vibrant culture and thriving Welsh language

They are consistent with the five ways of working as defined within the sustainable development principle in the Act and support the objectives of other stakeholders. There is an emphasis on prevention as the licensing process ensures that a number of checks and safeguards are in place before a licence is granted. There is also involvement particularly through the consultation process for applications allowing other agencies and the community to input into the decision-making process. The

prime focus for the Council is to ensure public safety and to provide an efficient and effective licensing service.

9. EQUALITIES IMPLICATIONS

- 9.1 There are no potential equalities implications of this report and its recommendations on groups or individuals who fall under the category identified in Section 6 of the Council's Strategic Equality Plan. No potential for unlawful discrimination and/or low level or minor negative impact has been identified; therefore a full EIA has not been carried out. The Council ensures that it treats all individuals who are renewing or making new applications for licenses, with equal respect in line with the Council's Strategic Equality Plan 2020 to 2024.

10. FINANCIAL IMPLICATIONS

- 10.1 The authority must balance the cost of providing the service with the impact any fee may have on businesses and the local economy. The Authority has a duty to rate payers to recover true costs and to manage its services efficiently.
- 10.2 As set out at 5.2 above recent rulings on fees and Local Government Association guidance clearly sets out that income from one licence type cannot support or fund other licence types, Councils cannot over-recover and fees must reflect the true cost of administration and the provision of the service.

11. PERSONNEL IMPLICATIONS

- 11.1 There are no personnel implications.

12. CONSULTATIONS

- 12.1 This report has been sent to the Consultees listed below and all comments received are reflected in this report.

13. STATUTORY POWER

- 13.1 The Zoo Licensing Act 1981

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Consultees: Cllr Denver Preece Chair, Licensing & Gambling Committee
Cllr Julian Simmonds, Vice Chair, Licensing & Gambling Committee
Cllr Nigel George, Cabinet Member for Waste and Public Protection
Mark S. Williams, Interim Corporate Director Communities
Robert Hartshorn, Head of Public Protection, Community and Leisure Services
Robert Tranter, Head of Legal Services and Monitoring Officer
Jacqui Morgan, Trading Standards, Licensing and Registrars Manager
Steve Harris, Head of Corporate Finance, S.151 Officer
Paul Adams, Senior Assistant Accountant

Anwen Cullinane, Senior Policy Officer (Equalities and Welsh Language)
Shaun Watkins, HR Manager

Background Papers:

Zoo Licensing Act 1981 – DEFRA Guide to the Acts provisions

Appendices:

Appendix 1 – Schedule of fees