

# LICENSING COMMITTEE MEETING

Date: Thursday 12 January 2023  
Time: 6.30 pm  
Venue: Town Hall, High Street, Maidstone

## Membership:

Councillors Springett (Chairman), Joy (Vice-Chairman), Brindle, Coates, English, Fort, Garten, Hinder, Naghi, Parfitt-Reid, Mrs Robertson, J Sams and Trzebinski

*The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.*

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7. To consider whether any items should be taken in private because of the possible disclosure of exempt information.	
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**Issued on Wednesday 4 January 2023**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

### **INFORMATION FOR THE PUBLIC**

In order to ask a question at this meeting, please call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk) by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Tuesday 10 January 2023). You will need to provide the full text in writing.

If your question is accepted, you will be provided with instructions as to how you can access the meeting.

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## MAIDSTONE BOROUGH COUNCIL

### LICENSING COMMITTEE

#### MINUTES OF THE MEETING HELD ON THURSDAY 10 NOVEMBER 2022

##### Attendees:

<b>Committee Members:</b>	<b>Councillors Springett (Chairman) , Brindle, Coates, English, Fort, Garten, Hinder, Joy, Naghi, Partfitt-Reid, Mrs Robertson, J Sams and Spooner.</b>
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34. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillor Trzebinski.

35. NOTIFICATION OF SUBSTITUTE MEMBERS

Councillor Spooner was present as a substitute for Councillor Trzebinski.

36. URGENT ITEMS

There were no urgent items.

37. VISITING MEMBERS

There was no Visiting Members.

38. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members and Officers.

39. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

40. EXEMPT ITEMS

**RESOLVED:** That all items be taken in public as proposed.

41. MINUTES OF THE MEETING HELD ON 13 OCTOBER 2022

**RESOLVED:** That the Minutes of the meeting held on 13 October 2022 be approved as a correct record and signed.

42. MINUTES OF THE LICENSING ACT 2003 SUB-COMMITTEE MEETING HELD ON 13 OCTOBER 2022

**RESOLVED:** That the Minutes of the Meeting held on 13 October 2022 be approved as a correct record and signed, subject to the correction of Councillor Coate's name within Minute 25.

43. QUESTIONS AND ANSWER SESSION FOR LOCAL RESIDENTS

There were no questions from local residents.

44. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the chairman.

45. HACKNEY CARRIAGE VEHICLE LICENSING - UNMET DEMAND SURVEY

The Senior Licensing Officer introduced the report and outlined the results of the unmet demand survey that was carried out by Licensed Vehicles Surveys and Assessment (LVSA) as part of Vector Transport Consultancy; there was currently no unmet demand, with the Committee requested to maintain the current hackney carriage licence limit. The last survey that was completed in 2019 found there was no unmet demand.

The Committee felt that the report provided was informative, and expressed support for maintaining the current limit on hackney carriage vehicle licences.

**RESOLVED:** That

1. The report submitted by Licensed Vehicle Surveys & Assessment (LVSA) part of Vector Transport Consultancy indicating an absence of any significant demand, be considered; and
2. The current limit on numbers be maintained.

46. LICENCE FEES AND CHARGES 2023/2024

The Senior Licencing Officer introduced the report. and outlined the proposed fee increases of five-per-cent to the majority of the licensing partnership fees, alongside a two-per-cent increase to the services provided by the Council's licensing department. An increase was proposed to recover the service's cost, with the Council having experienced a deficit across the last three years of the service's provision.

It was stated that if the proposed hackney carriage and private hire taxi fees were agreed, the fees would be advertised before implementation. If any responses were received, these would be presented to the Committee for further consideration.

In response to questions, the Senior Licensing Officer stated that the fees relating to casinos had not been increased as there were no casinos within the borough. The Gambling Act fees shown with a grey background within point 2.6 of the report had been increased to the maximum permitted.

In response to questions, the Head of Housing and Regulatory Services stated that the fee increases proposed were intended to cover the service's cost, as opposed to generating income. The Council could be liable to challenge if the fees proposed were raised above the cost of providing the service. The cost of the licensing partnership was monitored on a quarterly basis with the partnership

organisations, with the costs considered across a three-year programme to ensure effective monitoring.

The Committee felt that the proposed fee increases were well evidenced, and necessary only to ensure that the Council recovered the cost of the service's provision. The Committee's previous actions to support the taxi trade through alternative measures was reiterated.

**RESOLVED:** That,

1. The fee levels as set out at 2.7, 2.9, 2.11, 2.13, 2.14 and 2.15 of the report for implementation on 1 April 2023, be approved; and
2. The fee level as set out at 2.6 of the report for implementation on 1 April 2023 be approved, with any consultation responses received to be presented to the committee for consideration before that fees implementation.

47. DURATION

6:30 p.m. until 7:01 p.m.

# Agenda Item 9

## MAIDSTONE BOROUGH COUNCIL

### LICENSING ACT 2003 SUB COMMITTEE

#### MINUTES OF THE MEETING HELD ON THURSDAY 1 DECEMBER 2022

##### Attendees:

<b>Sub-Committee Members:</b>	<b>Councillors English (Chairman), Hinder and Trzebinski</b>
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26. APOLOGIES

There were no apologies.

27. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no substitute members.

28. ELECTION OF CHAIRMAN

**RESOLVED:** That Councillor English be elected as the Chairman for the duration of the meeting.

29. URGENT ITEMS

There were no urgent items.

30. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members and Officers.

31. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

32. EXEMPT INFORMATION

**RESOLVED:** That all items be taken in public, unless any Member of the panel wished to specifically refer to the information contained within Item 9 – Exempt Appendices to Item 8, in which case the Sub-Committee would enter into closed session due to the likely disclosure of exempt information.

The Sub-Committee would enter into closed session for its deliberations.

33. APPLICATION FOR REVIEW OF A PREMISES LICENCE - THE SOCIAL CHILL BAR, 95A WEEK STREET, MAIDSTONE, KENT, ME14 1QX

The persons participating at the hearing were identified as follows:

Chairman – Councillor Clive English

Sub-Committee Member – Councillor Bob Hinder

Sub-Committee Member – Councillor Ziggy Trzebinksi  
Senior Licensing Officer – Lorraine Neale  
Legal Advisor – Helen Ward  
Democratic Services Officer – Oliviya Parfitt

Applicant’s representatives – PC James Williams and James Powell

Respondent – Mr Bulent Turgut  
Respondent’s representative – Mr Paddy Whur, Woods Whur

Interested Party – Councillor David Naghi

The Sub-Committee adjourned between 10.30 a.m. to 11.15 a.m. to ensure that all Members of the Sub-Committee were able to review the evidence contained within Item 9 – Exempt Appendix 1(1), 1(4), 1(6) & 1(8) to Item 8 – Application for Review of a Premises Licence – The Social Chill Bar, 95a Week Street, Maidstone, Kent, ME14 1QX.

Following the Sub-Committee’s return, all parties confirmed that they were aware of the hearings procedure and had read the papers and supplementary information to the review.

The Chairman explained that:

- The Sub-Committee would allow all parties to put their case fully and make full submission within a reasonable time frame.
- The procedure would take the form of a discussion led by the Sub-Committee and they would usually permit cross-examination within a reasonable timeframe.
- Any person attending the hearing who behaved in a disruptive manner may be directed to leave the hearing by the Sub-Committee (including temporarily) after which, such person may submit to the Sub-Committee any information which that person would have been entitled to give orally had the person not been required to leave the meeting. If this was not possible, they may be permitted to speak at the Chairman’s invitation.

The Senior Licensing Officer introduced the report and stated that the review application had been submitted by Chief Inspector Mark McLellan, as Kent Police felt that all other avenues of engagement with the respondent had been exhausted. The grounds for the review were the prevention of crime and disorder, public safety and the protection of children from harm.

The Senior Licensing Officer stated that the review application as shown within Appendix 1 to the report outlined the incidents that had occurred at the premises and included the actions taken in response by the respondent and Kent Police. The respondent’s representative had submitted a case outline that was shown in appendix 6 to the report, which included reference to the respondent’s previous experience in managing other licensed premises.

The applicant’s representative was invited to make their case and outlined the following incidents:

- 11 June 2021; A disturbance at the venue had resulted in security staff using a metal baton on patrons within the venue. The incident was the subject of an ongoing criminal investigation.
- 23 June 2021; A disturbance at the venue resulted in the removal of a patron by the police. No further action was taken.
- 16 September 2021; A patron had made threats whilst in possession of glassware. Kent Police attended the venue, and the situation was de-escalated.
- 14 October 2021; A patron was allegedly assaulted by door staff, with concerns expressed over this having taken place due to their sexual identity. The case has since been resolved.
- 24 January 2022; A disturbance had taken place between the venue's patrons and door staff, with various allegations including that a bladed weapon was present.
- 10 April 2022; An incident had taken place within the venue which had led to an individual requiring facial reconstruction. The incident was the subject of an ongoing criminal investigation.
- 6 May 2022; An incident had occurred whereby the venue's staff had had to detain a patron. The police attended the venue, with other patrons acting in a drunk and disorderly manner, with a police vehicle kicked in response and arrests made.

The applicant's representative stated that after 01:00 hours there was a lack of control at the premises and non-compliance to certain conditions of the premises licence. Kent Police had issued various warning letters to the premises in response. The respondent's assistance to Kent Police's investigations was referenced, but it was stated that there had still been a failure on the respondent's part to uphold the licence conditions, including most recently on the 27 September 2022 where patrons entrance into the premises had not been recorded on a digital platform in accordance with relevant licence condition.

In response, the panel asked whether there had been any incidents since May 2022 however this could not be confirmed.

The interested party was invited to make their case, and in doing so referenced their surprise at the incidents that had taken place at the venue, with support expressed for the respondent's personal character as a responsible business owner. It was stated that they had known the respondent for a long time, that they had put their trust in the staff members at the premises at the time of the incidents, but that they had taken a series of rectifying actions since their occurrence.

The respondent's representative was invited to make their case on the respondent's behalf. The timing of the review was questioned, as it had been several months since the last incident at the premises, during which time the respondent had applied for a minor variation to the premises licence and had made several improvements to the premises' running. It was stated that a review

could have taken place earlier, such as from the June 2021 incident which had occurred 17 months ago.

It was stated that since the Covid-19 pandemic, many premises had struggled to find suitable door staff and that it would be unfair for the venue to have to close due to this. In response to concerns expressed by Kent Police, the respondent had removed the previously employed door staff.

Reference was made to the incidents contained within appendix 1 to the report, with the respondent's representative stating that it is common for the police to arrive at night-time economy venues to find that the originally reported issue had been resolved. In relation to the supply of alcohol to underage individuals, the bar staff had believed that the patrons had undergone age verification upon entering the premises, but staff training had since taken place and this had not happened again. The respondent's temporary inability to provide CCTV footage had been caused by a reduction in storage through the installation of additional cameras and had been rectified, alongside the introduction of an electronic attendance list. The previously adopted minor variation to the licence was highlighted as difficult to adhere to.

The respondent's representative stated that the requested actions by the police would be akin to revoking the premises licence and that the respondent would be financially unable to re-open the business after a temporary closure, which was felt to be an unfair and disproportionate request given the actions already taken. The respondent's representative highlighted the relevant guidance to the Sub-Committee in their consideration of the appeal, and the actions available to them.

The respondent addressed the Sub-Committee, stating that they had been operating in Maidstone since 2012. The previous incidents were stated as being outside of the respondent's control at the time, with the subsequent actions taken including the introduction of an app to record visitor attendance, improved CCTV provision and new door staff were reiterated. The respondent stated that they wanted to work positively with Kent Police.

In response, the applicant and their representative highlighted previous instances of non-compliance to the premises licence. In return, the respondent's representative stated that the breach of the on-sales condition was not encouraged or permitted. The respondent stated that the venue's staff undergo regular training sessions, and that the glassware had been replaced with plastic polycarbonate, with the digital attendance platform operational for two months prior to the hearing.

In response to questions from the Sub-Committee, the respondent confirmed that age verification took place before a patron's entry into the premises with an exit barrier preventing them from leaving with drinks with plastic glassware used in outside areas. A member of door staff was permanently stationed at the exit during the opening hours.

The respondent's representative confirmed that following an audit of the premises, the door staff were found to be retaining documents that should have been retained by the respondent as a compliance file and this had since been rectified. There were five personal license holders working at the premises, with the respondent confirming their either he or a family member are usually present during the premises opening hours; the respondent intended to obtain an SIA

licence also. The updated training package provided to staff included training on drug usage, underage sales and licensing generally, and included awareness of intoxication and managing issues non-confrontationally. The training register was signed by staff and kept in a file at the premises.

The applicant's representative was invited to make their closing remarks and reiterated several of the incidents that had taken place. It was stated that whilst the respondent had worked with the police during some of the investigations there had still been failings that had led to breaches of the premises licence. The last entry measures implemented had been evidenced as not being adhered to and had been recorded on paper.

The interested party was invited to make their closing remarks and stated that the Sub-Committee had been informed of the steps taken by the respondent to rectify the issues identified, and that they were a responsible business owner.

The respondent's representative was invited to make their closing remarks and reiterated the actions taken by the respondent, alongside the length of time since the last incident. Given the improvements made, the requests made by the applicant were disproportionate and would prevent the business from being commercially viable in the future. The respondent and their family took care in promoting the licensing objectives. The Sub-Committee were asked to consider the relevant statutory guidance.

The Sub-Committee asked their final questions to all parties present. In response, the applicant's representative stated that they were unable to confirm Kent Police's arrival time and reasonings for two of the incidents without consulting police records. The contributing factors to some of the CCTV excerpts provided as exempt appendices could not be confirmed, however the applicant's representative gave their professional opinion that intoxication and entry refusal had contributed to the incident.

In response to a question on any incidents since May 2022, the Legal Advisor confirmed that no new evidence could be presented to the Sub-Committee given the stage reached of the review. The Legal Advisor questioned the respondent's representative on the plan shown in Appendix 3 to the report in relation to adhering to the on-sales license condition; the latter stated that the further investigation to ascertain which plan was used in granting the premises licence was required with the respondent to be advised as a result. The respondent's representative stated that in their professional view as a lawyer, they did not agree with a suspension of the licence for staff training to take place given the timelines surrounding a suspension's implementation when considered alongside a decision's appeal.

The Chairman advised that the Sub-Committee would retire for deliberation with the legal advisor present. The meeting was adjourned between 12.30 p.m. to 1.15 p.m.

The Sub-Committee returned and the Chairman stated that having considered the evidence provided, representations made and the relevant legislation and guidance, the decision made was to take no further action. The reasons contributing to the decision were outlined in further detail.

It was confirmed that a written decision notice would be provided. Parties were reminded of the right of appeal to the Magistrates Court.

The hearing closed at 1.16 p.m.

**RESOLVED:** That the Sub-Committee's decision and reasons be provided within the Notice of Determination attached as an Appendix to the minutes.

34. EXEMPT APPENDICES 1(1), 1(4), 1(6), 1(7) & 1(8) TO ITEM 8 - APPLICATION FOR REVIEW OF A PREMISES LICENCE - THE SOCIAL CHILL BAR, 95A WEEK STREET, MAIDSTONE, KENT, ME14 1QX

**RESOLVED:** That the item be considered alongside Item 8 – Application for Review of a Premises Licence – The Social Chill Bar, 95a Week Street, Maidstone, Kent, ME14 1QX.



## LICENSING AUTHORITY: MAIDSTONE BOROUGH COUNCIL

### LICENSING ACT 2003 LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

#### NOTICE OF DETERMINATION REVIEW

Applicant: Chief Inspector Mark McLellan on behalf of Kent Police

Premises Social Chill, 95A Week Street, Maidstone, Kent ME14 1QX

Date(s) of hearing: 1 December 2022

Date of determination: 1 December 2022

Committee Members: Councillor Clive English (Chair)  
Councillor Bob Hinder  
Councillor Ziggy Trzebinski

Legal Advisor in attendance: Helen Ward, Lawyer (Contentious) MKLS

Licensing Officer in attendance: Lorraine Neale

Democratic Services Officer in attendance: Oliviya Parfitt

This was an application for:

Review

of a

Premises Licence

**A: Representations, evidence and submissions:**

The Sub-Committee considered the representations, evidence and submissions of the following parties:

**Applicant**

Name: Kent Police, PC James Williams, James Powell

Legal or other representative: None

**Responsible Authorities**

None

**Other Persons**

Cllr David Naghi

**Premises Licence Holder**

Mr Bulent Turgut

Legal or other representative: Paddy Whur, Woods Whur

**B: Consideration of the Licensing Act 2003, the Guidance under s. 182 of the Act and the Statement of Licensing Policy of Maidstone Borough Council**

The Sub-Committee has taken into account specifically the following provisions of the Licensing Act 2003 and the Regulations thereto:

Sections 51 - 53

The Sub-Committee has taken into account in particular the following provisions of the Guidance under section 182 of the Act:

Chapter 2 which relates to the licensing objectives  
Chapter 10 which relates to conditions attached to licences;  
Chapter 11 which relates to reviews.

The Sub-Committee has taken into account its Statement of Licensing Policy, in particular:

Section 3, relating to licensing authority policy considerations

Section 14, relating to reviews of premises licences  
Section 16, relating to hearings  
Section 17, relating to licence conditions

The Sub-Committee has decided to depart from the guidance under section 182 of the Act and or the statement of licensing policy for the following reasons:

Paragraphs and reasons (state in full):

N/A

**C: Determination:**

**The Sub-Committee has decided:**

- To take no action in respect of the premises licence. However, the Licensing Sub Committee note that the situation regarding consumption of alcoholic drinks off the premises must be resolved and welcomed the comments from the premises licence holder that steps would be taken in this regard.

**Reasons for determination, considering each of the licensing objectives in turn:**

■ **Prevention of Crime and Disorder**

Reasons (state in full):

The Licensing Sub Committee considered the evidence presented prior to and at the hearing in respect of incidents that had occurred at the premises. The Licensing Sub Committee recognised the seriousness of the incidents however they noted that no incidents had taken place since May 2022 and the premises licence holder had put in a number of measures since the incidents, including updates to the CCTV, a new door supervisor team and updated staff training measures. The Licensing Sub Committee heard evidence of weaknesses in the premises management and response to the incidents when they occurred however they were reassured by the premises licence holder that the additional steps taken would address previous failings. They recognised that the premises licence holder had undertaken a full licensing compliance audit and accepted credible evidence provided regarding an improvement to supervision and management training.

The Licensing Sub Committee noted that there were deficiencies in record keeping in particular in respect of the log book, but steps were being taken to rectify this, including by way of digitising the records on an app.

There was some discussion about off sales and the licence plans. The external area of the premises is not included in the licence plans and sales of alcohol are permitted for consumption on the premises only. The premises licence holder's representative made submissions that the plans were not licensing compliant and the premises licence holder will take steps to deal with this.

The Licensing Sub Committee considered the Police request to curtail the permitted hours. They noted the premises licence holder's concerns that this would be a de facto revocation of the premises licence due to the financial implications. The Sub Committee recognised that the promotion of the licensing objectives was the paramount consideration and they did not accept that the evidence provided was sufficient to justify any intervention of the hours. In particular, it was noted that the incidents themselves were some time ago and were not sufficiently linked to the time permitted for the sale of alcohol

The Licensing Sub Committee considered a period of suspension to allow for training however they felt that as improved training had already been put into place by the premises licence holder, no further steps were considered appropriate.

The Licensing Sub Committee considered the last entry condition but again did not feel that the evidence sufficiently justified any intervention in respect of this condition.

The Licensing Sub Committee considered all the existing premises licence conditions, including those relating to CCTV and staff training, and felt that no further steps were considered appropriate.

## ■ **Public Safety**

Reasons (state in full):

There was no evidence put forward in respect of public safety over that identified in the review application and the Licensing Sub Committee did not consider that any steps were required to ensure the promotion of this licensing objective.

## ■ **Prevention of public nuisance**

Reasons (state in full):

There was no evidence put forward in respect of the prevention of public nuisance and the Licensing Sub Committee did not consider that any steps were required to ensure the promotion of this licensing objective.

■ **Protection of children from harm**

Reasons (state in full):

In respect of the concerns relating to underage persons on the premises, the Licensing Sub Committee believed that the evidence for this was limited and the incident referred to in the review application had been dealt with appropriately by way of a contemporaneous warning from the police. No further steps were considered appropriate in respect of this licensing objective.

**D: Appeal**

Entitlements to appeal for parties aggrieved by the decisions of the Licensing Authority are set out in Schedule 5 to the Licensing Act 2003.

An appeal has to be commenced by the giving of a notice of appeal by the appellant to the magistrates' court within a period of 21 days beginning on the day on which the appellant was notified of the full written decision to be appealed against. Parties should be aware that the Magistrates' Court may make an Order as to costs in any Appeal.

PRINT NAME (CHAIR):

Signed [Chair]:

A copy of the original document is held on file

Date:

<b>Licensing Committee</b>	<b>12 January 2023</b>
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**Reference from Planning Committee - Introduction of a Licensing and Monitoring Scheme for all Holiday Lets within the Borough**

<b>Timetable</b>	
<b><i>Meeting</i></b>	<b><i>Date</i></b>
Planning Committee	15 December 2022
Licensing Committee	12 January 2023

<b>Wards affected</b>	All
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**Executive Summary**

The Planning Committee has recommended that consideration be given to whether the Council should introduce a licensing and monitoring scheme for all holiday lets within the Borough.

**This reference makes the following recommendation to the Licensing Committee:**

That consideration be given to whether the Council should introduce a licensing and monitoring scheme for all holiday lets within the Borough.

# Reference from Planning Committee – Introduction of a Licensing and Monitoring Scheme for all Holiday Lets within the Borough

## 1. REASONS FOR RECOMMENDATION

- 1.1 At its meeting on 15 December 2022, the Planning Committee granted planning permission for the change of use of an existing poultry shed into 2 four-bedroom and 2 three-bedroom holiday cottages, including associated landscaping and parking at Cherry Tree Farm, Stockbury. Arising from consideration of the application, the Committee agreed to recommend to the Licensing Committee that consideration be given to whether the Council should introduce a licensing and monitoring scheme for all holiday lets within the Borough.
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## 2. ALTERNATIVES CONSIDERED AND WHY NOT RECOMMENDED

Not applicable.

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## 3. REPORT APPENDICES

None.

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## 4. BACKGROUND PAPERS

Minutes of the meeting of the Planning Committee held on 15 December 2022

**Licensing**

**12<sup>th</sup> January 2023**

## Licence Fees and Charges 2023/2024 Pre-application advice

<b>Timetable</b>	
<b>Meeting</b>	<b>Date</b>
Licensing Committee	12 <sup>th</sup> January 2023
Executive/Lead Member on the Executive for (Portfolio Name) ( <i>select correct option</i> )	N/A

<b>Will this be a Key Decision?</b>	No
<b>Urgency</b>	Not Applicable
<b>Final Decision-Maker</b>	Licensing Committee
<b>Lead Head of Service</b>	John Littlemore, Head of Housing and Community Services
<b>Lead Officer and Report Author</b>	Sharon Bamborough
<b>Classification</b>	Public
<b>Wards affected</b>	All

### **Executive Summary**

Further to the annual review of fees and charges which took place at the previous meeting in November 2022, a further review of the pre-application advice fees is proposed. (*Should Members approve the proposed new fee structure it will replace the fees for pre-application advice which were approved at the previous meeting and they will come in force April 2023*).

### **Purpose of Report**

To seek Member approval of the licence fees for pre-application advice for the financial year 2022/23 where the Council has discretion over the level of fee as set out at **2.7** of the report for implementation on 1 April 2023.

### **This report makes the following recommendations to the Committee**

1. That the fee levels as set out at **2.7** of the report for implementation on 1 April 2023, be approved (and replace the former version approved at committee in November 2022, set out at 2.6);

# Licence Fees and Charges 2023/2024 Pre-application advice

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> <li>• Embracing Growth and Enabling Infrastructure</li> <li>• Safe, Clean and Green</li> <li>• Homes and Communities</li> <li>• A Thriving Place</li> <li>• We do not expect the recommendations will by themselves materially affect achievement of corporate priorities.</li> </ul>	Senior Licensing Officer
<b>Cross Cutting Objectives</b>	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> <li>• Heritage is Respected</li> <li>• Health Inequalities are Addressed and Reduced</li> <li>• Deprivation and Social Mobility is Improved</li> <li>• Biodiversity and Environmental Sustainability is respected</li> </ul> <p>The report recommendations do not materially impact on the achievement of the crosscutting objectives</p>	Senior Licensing Officer
<b>Risk Management</b>	Refer to paragraph 5.1 of the report'	Senior Licensing Officer
<b>Financial</b>	<ul style="list-style-type: none"> <li>• We expect accepting the recommendations will result in some extra income. This income is above amounts already accounted within the Council's financial planning.</li> </ul>	Senior Licensing Officer
<b>Staffing</b>	<ul style="list-style-type: none"> <li>• We will deliver the recommendations with our current staffing.</li> </ul>	Senior Licensing Officer
<b>Legal</b>	<ul style="list-style-type: none"> <li>• The council has statutory powers to charge for discretionary services on a cost recovery basis. This scheme is within those statutory powers.</li> </ul>	Interim Team Leader (Contentious and Corporate Governance)

<b>Information Governance</b>	<ul style="list-style-type: none"> <li>The recommendations do not impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council Processes.</li> </ul>	Senior Licensing Officer
<b>Equalities</b>	<ul style="list-style-type: none"> <li>The recommendations do not propose a change in service therefore will not require an equalities impact assessment</li> </ul>	Senior Licensing Officer
<b>Public Health</b>	<ul style="list-style-type: none"> <li>We recognise that the recommendations will not negatively impact on population health or that of individuals.</li> </ul>	Senior Licensing Officer
<b>Crime and Disorder</b>	There is no impact on crime and disorder in accepting the recommendations of the report	Senior Licensing Officer
<b>Procurement</b>	<ul style="list-style-type: none"> <li>N/A</li> </ul>	Senior Licensing Officer
<b>Biodiversity and Climate Change</b>	<p>The implications of this report on biodiversity and climate change have been considered and are;</p> <ul style="list-style-type: none"> <li>There are no implications on biodiversity and climate change.</li> </ul>	Senior Licensing Officer

## 2. INTRODUCTION AND BACKGROUND

2.1 The Council's fees and charges are reviewed on an annual basis as part of the budget setting process. The fees were reviewed in November 2022 and the minutes form part of the agenda.

2.2 At the time that review was being carried out, the Head of the Licensing Partnership was working on updating the pre-application advice fees but that piece of work had not been completed in time to form part of the November Fees & Charges report, therefore, the existing pre-application advice fees were included with the inflationary increase proposed.

2.3 The Head of the Licensing Partnership now asks that those pre-application fees agreed in November '22 are set aside and replaced with the new proposed fees set out below.

2.4 The reasons behind the restructuring of the pre-application advice fees are as follows:

- Having had 2 years in use, the existing fee structure is considered too complex by officers and applicants alike, leading to a low take up of the service

- By simplifying the fee structure it is hoped it will become more attractive to potential applicants and will encourage the officers to promote it
- It is hoped that if the simplified fees lead to a better take up of the service, more income will be achieved than at present.

2.5 Members are asked to consider the proposals for replacement of the pre-application advice fees and introduction of some new admin fees for which this Committee is responsible for reviewing at a local level.

## 2.6 **Existing Pre-application advice fees for 2023/24**

### **PRE-APPLICATION ADVICE (Licensing Act 2003 & Gambling Act 2005)**

	<b>2023/2024</b>
<b>Small Application</b> - Up to one hour of advice regarding small licence applications, <b>Excludes events – see below</b>	£71
<b>Medium Application</b> - Up to 2 hours advice for medium size applications including a site visit <b>Excludes event – see below</b>	£151
<b>Large Application</b> - Up to 4 hours advice for large applications including multiple (if necessary) site visits <b>Excludes events – see below</b>	£281
<b>Events up to 1000 capacity:</b> Category A - up to 3 hours advice for extra-large public events includes the cost of specialist officers and site visits	£386
<b>Events between 1001 and up to 1999 capacity</b> - Category B – up to 7 hours advice for extra-large public events includes the cost of specialist officers and site visits	£544
<b>Events between 2000 and up to 4999 capacity</b> – Category C – up to up to 14 hours advice for extra-large public events includes the cost of specialist officers and site visits	£754
<b>Extra-large events - 5000 people or more -</b> Category D - up to 21 hours advice for extra-large public events includes the cost of specialist officers and site visits	£1121

## 2.7 **New pre-application fees proposed:**

<b>Covers applications for:</b>	<b>Fee</b>
<b>Licensing Act 2003</b> <ul style="list-style-type: none"><li>• new premises licences</li><li>• full variations of premises licence</li><li>• new club premises certificate (CPC)</li><li>• variation of CPC</li><li>• provisional statement</li></ul> <b>Gambling Act 2005</b> <ul style="list-style-type: none"><li>• new and variation applications</li></ul>	
Up to one hour of advice regarding licence applications, including assistance in completing form ( <b>hourly rate</b> )	£75.00
site visit (to give advice) – up to one hour	£100.00
<b>Licensing Act 2003</b> - Minor variations – up to 30 mins advice on applications (including assessment as to whether suitable as a minor, suggestion on wording of proposed conditions, help completing application etc)	£35.00

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### 3. AVAILABLE OPTIONS

- 3.1 Members may decide to leave the fee levels as they are and not approve the new fee structure. This would mean the existing structure of fees would remain, which is considered quite complex and may continue the trend of poor take up of the service.
- 3.2 Members may approve the proposed fees as set at **2.7**
- 3.3 Members may require more work to be done on the proposed fee structure and give directions accordingly.

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### 4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Members are requested to approve the proposed replacement fee structure as set out at **2.7** of the report in the hope that it will lead to an increase in income.

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### 5. RISK

- 5.1 If the fee structure remains unchanged we might not achieve the full potential of income for this service.

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### 6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The fees set out at **2.7** are not subject to consultation.
-

## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 The fees will be charged with respect to pre-application advice from 1 April 2023 and published on our website.
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## **8. REPORT APPENDICES**

N/A

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## **9. BACKGROUND PAPERS**

N/A

2.1

## LICENSING COMMITTEE

**12 January 2023**

### ANIMAL LICENSING- SERVICE UPDATE AND PROPOSED FEE CHANGES

<b>Final Decision-Maker</b>	Licensing Committee
<b>Lead Head of Service</b>	John Littlemore, Head of Housing & Regulatory Services
<b>Lead Officer and Report Author</b>	Martyn Jeynes, Community and Strategic Partnerships Manager
<b>Classification</b>	Public
<b>Wards affected</b>	All

#### **Executive Summary**

In October 2018 new animal welfare regulations were introduced in England. The introduction of the legislation led to a wide range of changes which have impacted not only on licensable businesses but on the council's service delivery itself. The most significant changes included:

- standardisation and improvements to the minimal animal welfare standards
- broader scope to capture licensable activities, not just establishments
- a risk rated assessment, rewarding those establishments with higher welfare standards with longer licence periods
- Improved enforcement powers to ensure compliance
- Guidance on setting appropriate fees to resource the new requirements
- A requirement to train our Inspectors to a new national standard

This report provides members with an update on how the legislation has changed the licensing portfolio in Maidstone, how the work of the team ensures compliance and supports businesses in remaining compliant with current guidance, and proposed fee structure to better reflect the real cost of a regime and supports our regulatory function, including enforcement against those who flout the law.

#### **Purpose of Report**

Decision

#### **This report makes the following recommendations to this Committee:**

1. To note and acknowledge the work undertaken to improve animal welfare standards to date
2. To agree the proposed fee structure, produced in accordance with the guidance provided by DEFRA effective from 1 April 2023.

#### **Timetable**

<b>Meeting</b>	<b>Date</b>
Licensing Committee	12/01/2023

## ANIMAL LICENSING- SERVICE UPDATE AND PROPOSED FEE CHANGES

### 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
<b>Impact on Corporate Priorities</b>	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> <li>• Embracing Growth and Enabling Infrastructure</li> <li>• Safe, Clean and Green</li> <li>• Homes and Communities</li> <li>• A Thriving Place</li> </ul> <p>We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council's overall achievement of its aims as set out in section 3 [preferred alternative]. Animals provide a great deal of enjoyment and enrich the lives of those who own or use them for leisure purposes. This in itself generates a thriving business sector that must be regulated to ensure those businesses operate at the required standards and protect the welfare of the animals in their care.</p>	John Littlemore, Head of Housing & Regulatory Services
<b>Cross Cutting Objectives</b>	The report recommendation(s) will not impair the achievement of the cross-cutting objectives.	John Littlemore, Head of Housing & Regulatory Services
<b>Risk Management</b>	Already covered in the risk section under section 5 of the report	John Littlemore, Head of Housing & Regulatory Services
<b>Financial</b>	As detailed within the body of the report, the fee structure has been designed to ensure that the costs associated with the legislation are accounted for as far as reasonably possible without making the fees unreasonable for businesses. As part of a regulatory service, it can be difficult to predict the costs involved in enforcement, but this report and the fee structure have been informed by relevant experience and sharing of best practice and will be kept under review.	John Littlemore, Head of Housing & Regulatory Services

<b>Staffing</b>	Our animal welfare specialist has been designated as an Inspector in accordance with the Act having undergone the necessary level 3 training. Other officers will be utilised where necessary to ensure the service is delivered and to build a level of resilience should our inspector be absent for any period. This includes the recent introduction of a new assistant to support our inspector.	John Littlemore, Head of Housing & Regulatory Services
<b>Legal</b>	<p>Legal implications for regulation of animal activities are set out in the relevant legislation and the associated guidance. It may be necessary to undertake enforcement work and legal services may be engaged to support this where court action is necessary.</p> <p>Should parts of industry believe the Authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake judicial review proceedings. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.</p>	Interim Team Leader (Contentious and Corporate Governance)
<b>Privacy and Data Protection</b>	No specific issues relating to the implementation of the legislation with regard to persons of protected characteristics have been identified.	Policy and Information Team
<b>Equalities</b>	The recommendations do not propose a change in service therefore will not require an equalities impact assessment	Equalities & Communities Officer
<b>Public Health</b>	We recognise that the recommendations will not negatively impact on population health or that of individuals.	John Littlemore, Head of Housing & Regulatory Services
<b>Crime and Disorder</b>	As a growing sector, particularly the desire to have "designer dog breeds" it is important to ensure that consumers are protected against those who do not have the welfare of their animals and their customers in mind when conducting their business. Illegal animal related businesses put consumers and animals at risk, and we will work with partners and customers to drive down illegal businesses in this sector.	John Littlemore, Head of Housing & Regulatory Services
<b>Procurement</b>	None	John Littlemore, Head of Housing & Regulatory Services

<b>Biodiversity and Climate Change</b>	The implications of this report on biodiversity and climate change have been considered and are there are no implications on biodiversity and climate change.	Biodiversity and Climate Change Officer
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## **2. INTRODUCTION AND BACKGROUND**

### **Licensing of Animal Activities in Maidstone**

- 2.1 The functions related to Animal Welfare Licensing are carried out by the Council's Community Protection Team, rather than Maidstone's Licensing Team. Since the changes in regulation for animal-related activities were introduced in October 2018, the Community Protection Team (CPT) has been working with local businesses to ensure they understand and adopt the requirements of the new regime. The CPT's Animal Welfare specialist, working alongside CPT colleagues, officers from the Licensing Partnership and local vets, has sought to regulate businesses in Maidstone in relation to:
- Selling animals as pets
  - Providing or arranging for the provision of boarding for cats or dogs
  - Hiring out horses
  - Breeding dogs
  - Keeping or training animals for exhibition
- 2.2 In addition to the amended business types, the team also regulate two further licensable activities.
- Keeping a dangerous wild animal
  - Operating a zoo
- 2.3 The changes in legislation led to some businesses that were previously out of scope, now needing to be licensed. Appendix 1 provides a breakdown of the licences issued in Maidstone in comparison between the old and new regulations. Prior to October 2018 the CPT issued 33 licences across these areas. Under the new regulations we have seen a 70% increase (56 licences issued) in the number of businesses being regulated. This is set to rise to 100% (66 licences issued) as there are currently businesses known to the CPT that have or will be making an application in the next six months.

### **Improving Animal Welfare for Licenced Activities**

- 2.4 The primary purpose of the changes in the regime was to improve standards across the animal activity sector. Extensive guidance is provided for all aspects of animal care within these businesses, which led to some businesses having to make significant changes to their business practices. It has also led to some challenges in ensuring businesses fully understand the extent of the requirements.
- 2.5 This has been further compounded by changes in the guidance which has in some cases, moved established standards mid-license period, leading to difficult conversations and challenging inspections.

2.6 The new regime continues to require significantly more resources than the previous regime. This is because of significant increases in paperwork now required from the businesses, ensuring they can evidence the practices required to protect the animals in their care, and increased levels of scrutiny to ensure compliance on inspection. This is further reflected in the average time taken by our qualified Animal Welfare Inspector to undertake pre-inspection preparation and the site inspections under the two regimes:

	In 2017-18 (under old regulations, before October 2018)	Since 2018 (under new regulations)
Pre-inspection research and paperwork checks	30 minutes	4 – 5 hours
Average Inspection time	30-60 minutes	4 – 6 hours

2.7 The legislation uses a risk matrix (2.8), which allows licenses to be issued for up to three years based on the risk rating of the business and the standard of care they offer. The risk ratings for businesses are defined as:

- **Low risk**

Any business that is certified by a UKAS-accredited body and has one or more years of compliance history should be considered low risk. This is because the welfare and risk management systems have been reviewed by an accredited third party. A new licence holder will become low risk once they have achieved at least one year of animal licensing compliance with Maidstone Borough Council and no complaints have been substantiated against them.

- **High risk**

Businesses must be considered high risk if there is evidence of poor animal welfare or non-compliance. New applicants that do not have one year of compliance history with a local authority or a UKAS-accredited body will be automatically rated as high risk.

2.8 The risk matrix is set out as follows:

### **Animals activity star rating system**

	<b>Minor failings</b>	<b>Minimum standards</b>	<b>Higher standards</b>
<b>Low risk</b>	1 star rating, 1 year licence, at least 1 unannounced visit within 12 months	3 star rating, 2 year licence, at least 1 unannounced visit within 24 months	5 star rating, 3 year licence, at least 1 unannounced visit within 36 months
<b>Higher risk</b>	1 star rating, 1 year licence, at least 1 unannounced visit within 12 months	2 star rating, 1 year licence, at least 1 unannounced visit within 12 months	4 star rating, 2 year licence, at least 1 unannounced visit within 24 months

2.9 Achieving the higher standards has seen businesses improving their animal husbandry techniques, producing detailed procedural documentation and upgrading their facilities, all of which assures a better standard of care.

2.10 Appendix 2 shows the ratings for Maidstone and the continuing improvement of standards across our licenced businesses with 91% achieving a star rating of 3 or above. This reflects not only the standard of our businesses, but the support provided by the service.

### **Continuous development and service evolution**

2.11 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 brought the most significant changes in regulation decades. Whilst many businesses were well equipped to deal with the changes, many have had a difficult journey. Many businesses and local authorities across the country underestimated the implications of the new regime.

2.12 Continued challenges by businesses and industry experts against the government's guidance has seen a number of changes made, some of which have been significant. This has been a source of frustration for businesses and officers alike and has led some difficult conversations with re-applicants whose star ratings have had to be adjusted to meet the new criteria.

2.13 This uncertainty and changing standards make the continued improvements shown in Appendix 2 even more impressive.

2.14 The volume of licences, the wider remit of the CPT and the ongoing revision to the guidance has meant there have been challenges in committing the resources necessary to ensure the best service for our licensees. As shown in 2.6, the resources required to achieve these results has been significant and some activities have required significantly more officer time than we had anticipated. A recent uplift in funding has enabled the Community Protection Team to appoint an Assistant Officer to work with the Animal Welfare Inspector, a Community Protection Officer who is both qualified and authorised as an animal welfare specialist.

2.15 Work is currently being undertaken to make inspections more efficient and to improve the service overall. Developments currently being worked on include but are not limited to:

- Improved web content & support for new businesses looking at starting or moving a business to Maidstone
- A chargeable pre-app advice service to ensure applications can be processed more efficiently
- An improved CRM system and application process, providing live application progress reports
- A new social media channel to cover all things animal related, providing advice and best practice and encouraging people to report issues direct to the team

- 2.16 Whilst there have been some challenging inspections and some businesses have been disappointed with their star rating, our rigorous and documented processes have meant that none of the licences issued by the CPT have been formally challenged. This provides significant reassurance to higher standard businesses that their 4–5-star rating is not only earned but protected.
- 2.17 The introduction of tighter regulation around the selling of puppies was designed to cut down on the illegal selling of puppies, by ensuring puppy adverts carry a licence number from a local authority. This means that anyone who generates more than £1000 in income from selling puppies and who breeds three litters or more in a 12-month period is required to be licenced. This ensures that breeding bitches are protected from over breeding and their welfare is maintained to an acceptable standard throughout.
- 2.18 As a result of this regulation, we have seen a 200% increase in the number of breeding businesses licenced with the Authority. This has been driven by significant increases in puppy sales during and since the pandemic and the recent introduction of “Lucy’s Law”, which outlaws third party selling of puppies, forcing those using “friends” to sell their puppies, to obtain a licence. However, this is also an area where people are still exploiting the legislation with puppy farming and nationwide puppy farming rings known to be active in Kent.
- 2.19 Significant increases in the cost of puppies have been driven by demand, particularly during the pandemic. Whilst prices have fallen, they are not back to pre-COVID prices. Cost is very dependent on breed. For example, American XL bullies have soared in popularity and each puppy will sell for £4-5K. Miniature Dachshunds are around £3-4K each. This is also an area where regulation has significant challenges as breeding often occurs in residential properties and information regarding puppies for sale requires extensive reconnaissance of social media and advertising sites. The opportunistic nature of being able to breed dogs often means that these businesses require a disproportionate amount of resource to ensure the welfare of the breeding bitch and her puppies, this is reflected in the increased cost for amateur/first time breeders in the proposed fees. It is hoped this will also serve as a deterrent to those thinking that breeding dogs is an opportunity to make money.

## **Enforcement challenges**

2.20 Whilst priority is given to processing and regulating those businesses that apply for a license, an important but difficult aspect to this area of work is the enforcement. Enforcement not only ensures the appropriate welfare standards are being met, but also ensures those businesses who do comply with the regulations are not disadvantaged by those who circumnavigate or ignore the regulations.

2.21 Where animal welfare standards are not being met by a licenced establishment or by the keeper of an animal, the Animal Welfare Officer has specific powers to serve improvement notices against those responsible. Failure to comply with the requirements of a notice is an offence and can lead to a prosecution. This power is assigned in statute to a Local Authority appointed Animal Welfare Inspector or a Police Constable. Where someone is found to be undertaking a licensable activity without a license, they can be prosecuted for doing so.

2.22 As criminal offences, the burden of proof required to obtain a conviction is to prove the offence "beyond all reasonable doubt". Knowing or suspecting that someone is acting illegally is not sufficient to bring about a successful prosecution. Irrefutable evidence is required to secure a conviction. As an example, searches on social media and selling sites can disclose/suggest that businesses or individuals are operating illegally in the area. But evidence is required to be able to act. Therefore, successful enforcement relies on the development of intelligence and/or resource intensive surveillance and inspections, including the use of warrants to secure the necessary evidence. It isn't what the officer knows, but what the officer can evidence and prove that is integral to successful enforcement.

2.23 Undertaking enforcement activities is an important element of any licensing regime and is funded through the fees as set out below.

## **Service costs and proposed fees**

2.24 As with other areas of licensing, Local Authorities are able to charge for their reasonable costs in undertaking the regulatory function. This fee structure was updated in 2019 to reflect what had been learnt in the first year. Having not updated the fees since 2019, the proposed fees for April 2023 onwards, provided in Appendix 3, reflect the continued learning of the team and how the sector has changed as a result of the new legislation and other factors.

2.25 Explained in more detail below, the proposed fee structure ensures that those businesses who present the highest risk and the lowest standards of animal care will be required to pay higher fees than established businesses, who demonstrate higher standards of animal care.

2.26 Businesses can reduce their long-term fees by working to ensure they build a positive reputation (low risk) and implement the higher standards of care before their renewal, allowing their licence period to extend to up to 3 years. This achieving a 3-year licence represents a significant saving on the annual fees required before October 2018 and increases animal welfare standards across the sector as a result.

2.27 Every reasonable effort has been taken to ensure the fees reflect the resources required, incorporating what we know to be the requirements of the new legislation. The fee is broken down into two parts:

- **Part A- Application/renewal assessment and inspection**

- costs of processing the application and making the assessment
- uses the average time taken to review any application, adjusted based on the size and nature of the business (i.e., resources needed to assess)
- payable regardless of whether the application is successful or not
- includes:
  - reviewing all submitted documentation (several detailed documents including procedure notes and animal welfare speciation's specific to the species/breed of animal/activity)
  - site inspection to assess animal welfare, animal husbandry and animal housing against prescribed standards
  - assessment report and licence approval/refusal as appropriate

- **Part B- Licenced establishment costs**

- reflects the costs of the functions distributed over all licenced businesses (c 60 businesses)
- only payable for successful applications, paid in advance, but refunded as appropriate
- Part B accounts for c40% of fees for new application
- includes ongoing costs for the business and sector in general:
  - enforcement against unlicenced activity
  - announced and unannounced visits during licence period (required by law)

2.28 The process by which the proposed fees have been calculated is fully auditable and takes into account evidenced learning from delivering the service in the last 2 years. Should a business feel the fees are disproportionate they may seek to challenge this by way of a judicial review. We are confident that we could demonstrate that the fees have been calculated on a cost of recovery basis only, in accordance with the leading case law. Further justification for the fee setting is provided in section 4.

- 2.29 Although not captured in the new legislation, we have also included a proposed fee for Dangerous Wild Animals (DWA), those animals considered to be wild, dangerous or exotic. These are species listed by DEFRA as needing specific licensing requirements, often due to the risk they pose if not handled or cared for appropriately. These include:
- wild cats
  - primates
  - wild dogs, e.g. wolves
  - certain pigs, e.g. wild boar
  - marsupials
  - highly venomous invertebrates, e.g. black widows and scorpions
  - crocodilians
- 2.30 In setting the fee for DWAs officers have proposed a heavily discounted fee. Unlike other licences, these are not businesses. These are private collectors and therefore do not generate an income from their animal(s). The low fee also ensures those who bring or care for a DWA in our borough are not discouraged from ensuring that the animal is known to us, and we can assure the appropriate precautions and care regimes are in place. Given the nature of these animals, the actual cost recharged as a fee would likely discourage people from declaring their animal, but the nature of these animals means that it might not discourage them from obtaining the animal without declaring it. As an example, we were previously asked whether someone could keep Cayman Crocodiles in their bathtub. Appropriate advice was given, and the enquirer reassessed their pet purchasing plans.
- 2.31 To further improve the service, we are proposing to introduce a pre-applications advice fee. This will allow the CPT to provide expert advice to those looking to set up a new business or expand their existing business. This would ensure applications stay within the estimated costings, reducing some of the costly “handholding” currently necessary to support under prepared or potentially problematic businesses. This is an area where costs are not presently recovered with our inspector and her assistant spending considerable time answering initial enquiries and follow-up questions.

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### **3. AVAILABLE OPTIONS**

- 3.1 Option 1: Do nothing – Continue to use the existing fee structure. Whilst it would be feasible to continue using the existing fees, the new fees have been formulated to reflect the work actually required to issue a licence. Reg 13 (2) of the Act makes statutory requirement for fees not to exceed reasonable costs of various matters set out. We would still need to undertake the work to regulate businesses and any shortfall would need to come from the public purse. We also need to introduce new fees for pre-application and improved fees for variations, which cannot be offered without an agreed fee.
- 3.2 Option 2: Introduce the new fee structure to support the continued development of the Animal Licensing Regime. The new fees reflect the resource actually required to continue to deliver the improved levels of Animal Welfare in licensed activities. The new fee structure will not only allow for continued high levels of support for businesses but will also allow officers to pursue those operating without a licence.

3.3 Option 3: Introduce the new fees, discounted to 80% until January 2024. The costs of this work are recoverable and there is no way to reduce our actual costs without putting the welfare of animals at risk. Introducing 80% of fees until January 2024 will only benefit new businesses, which present the highest risk, or those higher risk establishments that were issued with a 1–2-year licence in the last 24 months. There will also be no benefit to the 29 businesses whose licences will be renewed in 2024 or 2025. This option would also mean the shortfall in service costs will need to be funded from our existing service budget, which would need to be protected to ensure statutory functions remain deliverable across our remit. 80% of the proposed increase would also be a reduction of fees in some areas, which would again not benefit existing businesses who paid more for their licence in the last 24 months.

#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

4.1 The preferred option is Option 2 as described in 3.2.

4.2 As a service we recognise that, as with any business, there are challenges in the current economy with everyday costs rising. As a service we face similar pressures with increased pressures on service costs putting pressure on service levels and ultimately the resources available to deliver this statutory service. We understand the pressure that introducing new fees puts put on the committee and its members, and we have considered the fee increases recommended very carefully, providing the committee evidence that reflects:

- Resourcing the service and added value
- The animal licensing market
- Benchmarking against comparable services

##### **Resourcing the service and added value**

4.3 As outlined in the previous section, the last year has seen further increases in the number of licenced animal activities in the borough, which is understood to be significantly higher than in neighbouring authorities:

Maidstone	56*
Ashford	50
Swale	42
Tonbridge and Malling	39
Tunbridge Wells	44

(\*rising to 66 in the next 6 months)

4.1 As a result, we have had to reallocate further resources from the Community Protection Team to meet demand, introducing a new assistant to support the delivery of animal licensing and other animal related matters, including, but not limited to, animal welfare, dangerous/nuisance dogs, straying dogs and dog fouling. The additional resource has also allowed us to undertake some additional enforcement work and to commence a long overdue transformation project to make the animal welfare process significantly more efficient and customer friendly. The fees will be reviewed again in 2025 and any efficiencies gained through the transformation project will incorporated in any changes identified.

- 4.4 The most significant increase in fees is for new applications. Analysis of the time taken to assess new businesses has shown a need to invest more resource into these businesses because of the time taken to complete the assessment and review their paperwork. The pre-application will help minimise some of the more time-consuming applications we have dealt with, where a disproportionate amount of support and consultation has been needed, but not chargeable.
- 4.5 Increases in the fees for selling of animals, performing animals, riding schools and breeding have been driven by the need to undertake assessments of the animals in the care of the business themselves. In the other animal activities, the focus is largely on the housing and the processes, but additional checks are needed for the welfare of, for example, the individual horses and their riding tack.

**The animal licensing market**

- 4.6 Most of our existing businesses have been able to achieve more than 3-stars, which means their licences have been issued for two or three years. With fees only payable at application and renewal, most businesses are still paying less per year than they were under the previous fee structure shown below:

<b>Licensable Activity</b>	<b>2018 Fee Range</b>	<b>2023/24 Eqv annual cost (2 to 3yr licence)</b>
Boarding Kennels	£360-£450	£185-£310
Boarding Cattery	£185-£305	£180-£263
Pet shops	£420	£228-£343
Riding establishments	£320-£435	£228 -£373
Breeding establishments	£295-£550	£217-358

- 4.7 These businesses are being rewarded for being low risk and having a higher standard of animal welfare and the proposed changes to fees will not affect 29 businesses who have been issued licences in the last 12 months until they renew their licence in 2024 or 2025. The new fees will be communicated to all licensees as soon as possible so that they can incorporate them into their financial forecasting. The average increase for a new application is £186 and only £70 for a renewal application.
- 4.8 The “proposed cost per day” shown in 4.10 are based on a new business (high risk) who achieves 1 star (minimum welfare standards). Renewals and higher star ratings will reduce this daily cost to less than £1 a day, representing excellent value for money given their expected annual income.

- 4.9 Research of the businesses licenced in Maidstone show the incomes for these businesses are significantly higher than the £1000 minimum threshold set in the regulations. The charges for services offered by businesses in Maidstone are outlined below:

Activity	Income	Proposed cost of licence (new application) (per day)
Cat Boarding (Up to 50 cats)	£10 - £18 per cat per day	£3-£4
Dog Boarding (Up to 50 dogs)	£15 - £30 per dog per day/night	£3-£4
Dog Home Boarding (up to 4 dogs)	£25- £30 per dog per day/night	£3-£4
Dog Breeding (selling puppies) Up to 10 breeding bitches	£2000 - £3500 per Puppy (Avg. 5-6 puppies per litter, up to 2 litters a year)	£4-£5
Dog Day Care (up to 4 dogs)	£30 per dog per day	£3-£4
Horse Hiring (riding lessons): More than 11+ horses	Adults £25-£545 per hour	£4-£5

- 4.10 Also proposed in the new fees are two levels of pre-application fee and variation fees to incorporate whether a visit is requested/needed respectively. This will ensure the service remains deliverable, the variation fee in particular allowing customers the opportunity to make changes to their licence, without the need to re-apply.

- 4.11 When reviewing Appendix 3, Members are reminded that businesses with a 5-star licence will save considerably over the length of their license period and the objective of the legislation is to encourage increase animal welfare standards. The most significant increases are for new applications. This reflects the complicated nature of assessing of an establishment with little or no local history for the first time. These establishments are also required to pay for a veterinary inspection. The lives and welfare of animals are being assessed in these new businesses and the additional expense reflects the need to do everything we can to safeguard animals in our borough.

### **Benchmarking against comparable services**

- 4.12 The proposed fee structure has been generated in accordance with the guidance provided, which itself was based on the responses made to the initial consultation and work undertaken by DEFRA when originally drafting the legislation. Similar structures have been adopted by other Kent authorities but will vary based on each LA's officer costs. Appendix 4 provides a breakdown of the fees charged across Kent and our CIPFA neighbouring authorities. Our fees are comparable and reflective of the costs incurred in providing the service.

## **5. RISK**

5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

## **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

6.1 The fees set out in Appendix 3 are not subject to a statutory consultation period as they are calculated based on the resources required to provide the service on a cost recovery basis.

6.2 As with the previous increase in 2019, the annual cost of a licence for most businesses will be less than under the previous regime and has not deterred new businesses applying for licenses since their introduction.

6.3 The fees will be reviewed again in 2025 and any efficiencies gained through the transformation project will be incorporated in any changes identified.

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## **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

7.1 The fees will be charged with respect to new and renewal applications from 1<sup>st</sup> April 2023. All existing customers will be sent information regarding the fees to ensure they can incorporate them into any financial forecasting.

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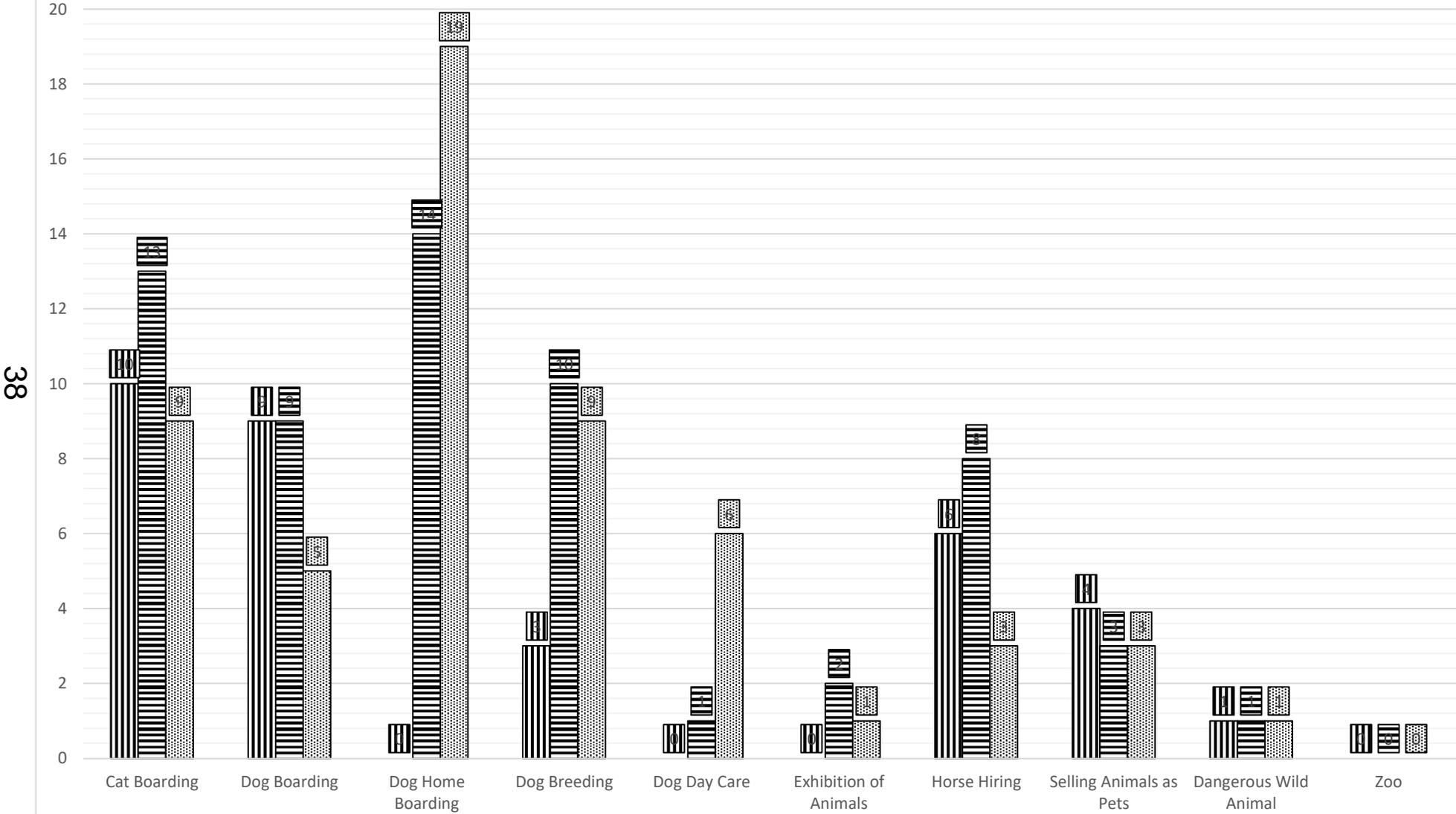
## **8. REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

- Appendix 1: Licenced Animal Activities in Maidstone
  - Appendix 2: Animal Activity Star Ratings
  - Appendix 3: Proposed fees for Animal Licensing Activities 2023/2024
  - Appendix 4: Benchmarking fees across Kent and from our CIPFA nearest neighbours
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# Appendix 1- Licenced Animal Activities

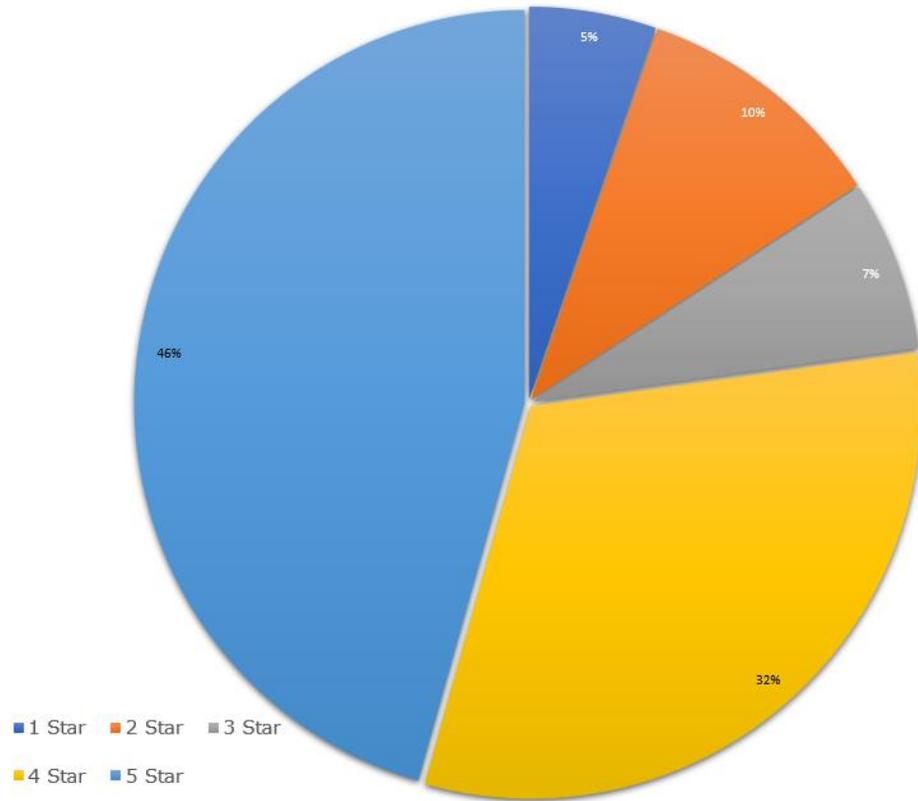
Pre Oct 18 2019 2022



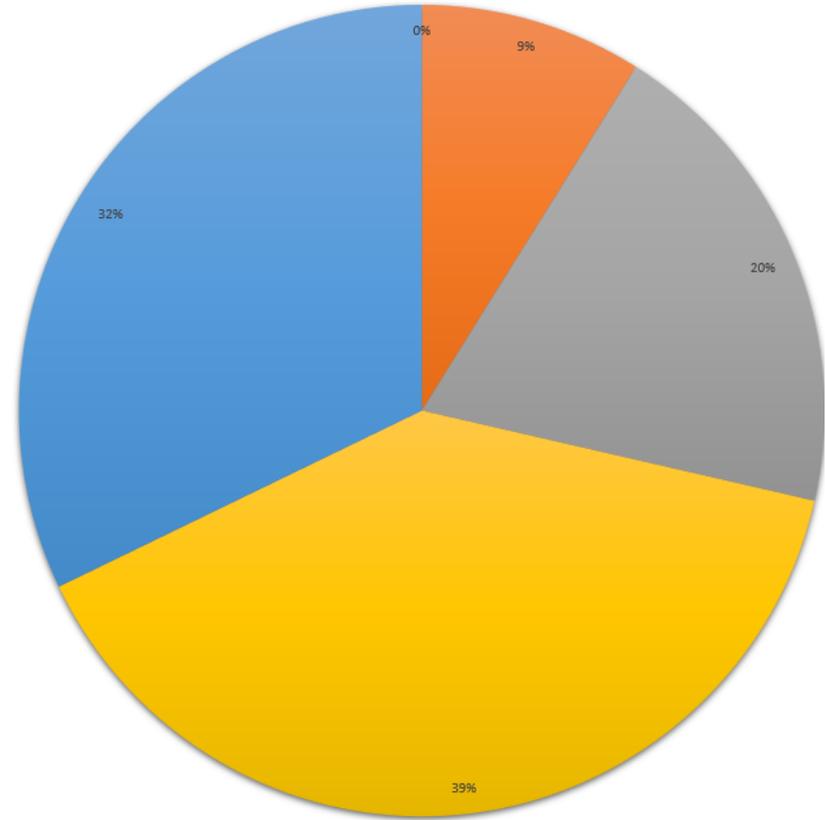
Appendix 2- Animal Activity Star Ratings, 2019 to 2022

39

**2019**



**2022**



Appendix 3 – Proposed fees for Animal Licensing Activities 2023/2024

- Proposed fees

New Application				
Activity Type	Activity Size	2023/24 fee	2020/21 fee	The +/-
Boarding Kennels	Up to 50 dogs	£655.00	£530.00	£125.00
	51 or more dogs	£715.00	£610.00	£105.00
Boarding Cattery	Up to 50 cats	£635.00	£495.00	£140.00
	51 or more cats	£655.00	£530.00	£125.00
Pet shops	Single group of animals	£785.00	£570.00	£215.00
	Each additional group	£65.00	New	N/A
Home boarding and day care	Up to 4	£590.00	£495.00	£95
	5 or more dogs	£605.00	£530.00	£75
	<i>Arranger fee</i>		£380.00	£40.00
	<i>Host fee</i>		£190.00	£20.00
Riding establishments	Up to 10 horses	£785.00	£570.00	£215.00
	11 or more horses	£845.00	£645.00	£200.00
Performing animals	One to 5 species	£655.00	£455.00	£200.00
	Each additional species	£50.00	New	N/A
Breeding establishments	Up to 5 dogs	£750.00	£455.00	£255.00
	6-10 dogs	£785.00	£495.00	£255.00
	11+ dogs	£815.00	£530.00	£245.00
<i>Dangerous Wild Animal</i>	Per Species	£210.00	New	N/A
Zoo*	<i>Single species</i>	£530.00	£530.00	£0.00
	<i>Less 10 species</i>	£720.00	£720.00	£0.00
	<i>More 10 species</i>	£1,220.00	£1,220.00	£0.00

\*Does not include Veterinary or DEFRA Fees which could see this rise to c£3000-5000 depending on the size of the establishment and the species type.

Renewal						
Activity Type	Activity Size	2023/24 fee	2020/21 fee	The +/-	Annual cost for Low Risk (new)/5* Standards (3 yrs)	Annual cost for Low Risk (new)/4* Standards (Max 2 yrs)
Boarding Kennels	Up to 50 dogs	£555.00	£480.00	£75.00	£185	£278
	51 or more dogs	£620.00	£555.00	£65.00	£207	£310
Boarding Cattery	Up to 50 cats	£540.00	£440.00	£100.00	£180	£270
	51 or more cats	£525.00	£480.00	£45.00	£175	£263
Selling of animals	All types	£685.00	£520.00	£165.00	£228	£343
	Each additional group	£25.00	New	N/A	£8	£13
Home boarding and day care	Up to 4	£490.00	£440.00	£50.00	£163	£245
	5 or more dogs	£505.00	£480.00	£25.00	£168	£253
	<i>Arranger fee</i>	£340.00	£290.00	£25.00	£105	£158
Riding establishments	<i>Host fee</i>	£130.00	£95.00	£35.00	£43	£65
	Up to 10 horses	£620.00	£520.00	£165.00	£228	£343
	11 or more horses	£650.00	£595.00	£150.00	£248	£373
Performing animals	All types	£595.00	£400.00	£155.00	£185	£278
	Each additional group	£40.00	New	N/A	£13	£20
Breeding establishments	Up to 5 dogs	£695.00	£400.00	£250.00	£217	£325
	6-10 dogs	£715.00	£440.00	£245.00	£228	£343
	11+ dogs	£730.00	£480.00	£235.00	£238	£358
<i>Dangerous Wild Animal</i>	Per Species	£130.00	New	N/A	N/A	N/A
Zoo	<i>Single species</i>	£440.00	£440.00	£0.00	N/A	N/A
	<i>Less 10 species</i>	£630.00	£630.00	£0.00	N/A	N/A
	<i>More 10 species</i>	£1,130.00	£1,130.00	£0.00	N/A	N/A

Miscellaneous Fees	Cost	Note
Pre-app (Paperwork)	£65.00	Approx. 2 hrs officer time
Pre-app + (Paperwork and visit)	£130.00	Approx. 4 hrs officer time
Variation (Minor-paperwork)	£65.00	Approx. 2 hrs officer time
Variation (Major-paperwork and visit)	£130.00	Approx. 4 hrs officer time
Equine Variation (Variation to schedule of horses)	£50.00	Approx. 1.5 hrs officer time
Re-inspection/scoring appeal	£160.00	4.5 hrs officer time. Refundable if appeal upheld and rescored.

- Cost analysis for businesses

<b>New Application (Automatically considered high risk)</b>						
<b>Activity Type</b>	<b>Activity Size</b>	<b>Estimated Vet Fee<sup>^</sup></b>	<b>Annual cost 4*inc Vet (2 yrs)</b>	<b>Daily cost 2 yrs</b>	<b>Annual cost for &gt;4* inc Vet (1 yr)</b>	<b>Daily cost 1 yr</b>
<b>Boarding Kennels</b>	Up to 50 dogs	£600	£628	£1.77	£1,255	£3.57
	51 or more dogs	£680	£698	£1.96	£1,395	£3.96
<b>Boarding Cattery</b>	Up to 50 cats	£580	£608	£1.71	£1,215	£3.45
	51 or more cats	£600	£628	£1.77	£1,255	£3.57
<b>Pet shops</b>	Single group of animals	£760	£393	£1.11	£785	£2.23
	Each additional group	£840	£33	£0.09	£65	£0.18
<b>Home boarding and day care</b>	Up to 4	£520	£555	£1.56	£1,110	£3.15
	5 or more dogs	£580	£593	£1.67	£1,185	£3.37
	<i>Arranger fee</i>	TBC	£198	£0.56	£395	£1.12
	<i>Host fee</i>	TBC	£105	£0.30	£210	£0.60
<b>Riding establishments</b>	Up to 10 horses	£760	£773	£2.18	£1,545	£4.39
	11 or more horses	£840	£843	£2.37	£1,685	£4.79
<b>Performing animals</b>	One to 5 species	Not required	£328	£0.92	£655	£1.86
	Each additional species		£25	£0.07	£50	£0.14
<b>Breeding establishments</b>	Up to 5 dogs	£800	£735	£2.07	£1,470	£4.18
	6-10 dogs	£600	£773	£2.18	£1,545	£4.39
	11+ dogs	£680	£808	£2.27	£1,615	£4.59
<b>Dangerous Wild Animal</b>	Per Species	Species specific	£105	£0.30	£210	£0.60

<sup>^</sup> Mandatory for 1<sup>st</sup> Licence

Renewal							
Activity Type	Activity Size	Annual cost for 5* (3 yrs)	Daily cost 3 year Licence	Annual cost for 3* (2 yr)	Daily cost 2 year Licence	Annual cost for 1* (1 yr)	Daily cost 1 year Licence
<b>Boarding Kennels</b>	Up to 50 dogs	£185	£0.53	£278	£0.78	£555	£1.52
	51 or more dogs	£207	£0.59	£310	£0.87	£620	£1.70
<b>Boarding Cattery</b>	Up to 50 cats	£180	£0.51	£270	£0.76	£540	£1.48
	51 or more cats	£175	£0.50	£263	£0.74	£525	£1.44
<b>Selling of animals</b>	All types	£228	£0.65	£343	£0.96	£685	£1.88
	Each additional group	£8	£0.02	£13	£0.04	£25	£0.07
<b>Home boarding and day care</b>	Up to 4	£163	£0.46	£245	£0.69	£490	£1.34
	5 or more dogs	£168	£0.48	£253	£0.71	£505	£1.38
	<i>Arranger fee</i>	£105	£0.30	£158	£0.44	£315	£0.86
	<i>Host fee</i>	£43	£0.12	£65	£0.18	£130	£0.36
<b>Riding establishments</b>	Up to 10 horses	£228	£0.65	£343	£0.96	£685	£1.88
	11 or more horses	£248	£0.71	£373	£1.05	£745	£2.04
<b>Performing animals</b>	All types	£185	£0.53	£278	£0.78	£555	£1.52
	Each additional group	£13	£0.04	£20	£0.06	£40	£0.11
<b>Breeding establishments</b>	Up to 5 dogs	£217	£0.62	£325	£0.92	£650	£1.78
	6-10 dogs	£228	£0.65	£343	£0.96	£685	£1.88
	11+ dogs	£238	£0.68	£358	£1.01	£715	£1.96
<b>Dangerous Wild Animal</b>	Per Species	£43	£0.12	£65	£0.18	£130	£0.36

Appendix 4- Benchmarking fees across Kent and from our CIPFA nearest neighbours

	MBC*	Basingstoke & Deane	Chelmsford	Colchester	Ashford	Braintree	Rugby	Huntingdon shire	Cherwell	Warwick	North Herts	Swale	T & M	M'way	RTW
<b>Cattery</b>	680-690	430	219	446	460	369	180-210	240-480	402	398.48 - 495.08	586-593	217	557-612	420-667	605-854
<b>Kennel</b>	680-690	430	219	446	460	369	180-210	240-480	402	398.48 - 495.08	586-593	217	557-612	420-667	605-854
<b>Day Care</b>	440-530	430	165	446	425	369	175	240-480	402	301.88	494-530	217	557-612	420.00-739.00	605-854
<b>Home Boarding</b>	680-885	430	165	277	425	369	180-210	240-480	402	241.50	436-473	217	557-612	420-739	605-854
<b>Dog Breeding</b>	790-820	538	219	302	395-460	369	240	240-400	402	398.48	533.00-556.25	217	620-650	420-808	605-854
<b>Hiring out Horses</b>	710-740	538	249	482	495-555	369	220	250-450	402	326.03	810-846	217	605	492-739	605-854
<b>Selling Animals as Pets</b>	755	538	221	374	495	369	195	250	402	362.25	600-606	217	505-570	420-667	605-854
<b>Exhibiting Animals</b>	685	538	176	365	395	342	180	270	402	362.25	413-481	217	495	420	711
<b>DWA</b>	210	N/A	329	282	N/A	367	N/A	395	402	N/A	599-607	N/A	790	N/A	674
<b>Zoo Licensing</b>		683	N/A	2020	N/A	562	265	N/A **	610	N/A	N/A	N/A	745	N/A	851
<b>Variation Fee</b>	115.00	N/A	N/A	154.00	130	143	N/A	N/A	N/A	N/A	124	N/A	N/A	N/A	116

- Proposed fees from April 2023