

AGENDA

LICENSING COMMITTEE MEETING



Date: Thursday 28 January 2016

Time: 6.30 pm

Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Mrs Blackmore, Greer, Mrs Grigg,
Mrs Hinder (Chairman), Mrs Joy (Vice-
Chairman), McLoughlin, B Mortimer,
Naghi, Newton, Mrs Parvin,
Mrs Robertson and Springett

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1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Disclosures by Members and Officers
5. Disclosures of Lobbying

Continued Over/:

Issued on Wednesday 20 January 2016

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**Alison Broom, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone Kent ME15 6JQ**

6. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
7. Minutes of the Meeting held on 26 November 2015 1 - 6
8. Report of the Head of Housing and Community Services - Scrap Metal Dealer: Licence Fees 2016/2017 7 - 23
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MAIDSTONE BOROUGH COUNCIL

Licensing Committee

MINUTES OF THE MEETING HELD ON THURSDAY 26 NOVEMBER 2015

Present: Councillor Mrs Hinder (Chairman), and
Councillors Mrs Blackmore, Greer, Mrs Grigg, Mrs Joy,
B Mortimer, Naghi, Newton, Mrs Ring and Mrs
Robertson

Also Present: Councillor Vizzard

65. **APOLOGIES FOR ABSENCE**

It was noted that apologies for absence had been received from Councillors McLoughlin, Parvin and Springett.

66. **NOTIFICATION OF SUBSTITUTE MEMBERS**

It was noted that Councillor Ring was substituting for Councillor McLoughlin.

67. **NOTIFICATION OF VISITING MEMBERS**

Councillor Vizzard was in attendance as an observer.

68. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members or Officers.

69. **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

70. **TO CONSIDER WHETHER ANY ITEMS SHOULD BE TAKEN IN PRIVATE BECAUSE OF THE POSSIBLE DISCLOSURE OF EXEMPT INFORMATION.**

RESOLVED: That the items on the agenda be taken in public as proposed.

71. **MINUTES OF THE MEETING HELD ON 24 SEPTEMBER 2015**

RESOLVED: That the minutes of the meeting held on 24 September 2015 be approved as a correct record and signed.

72. **MINUTES OF THE MEETING HELD ON 19 OCTOBER 2015**

RESOLVED: That the minutes of the meeting held on 19 October 2015 be approved as a correct record and signed, subject to the following amendment:

That the reference to a Dance House Mother be amended to read House Mother.

73. REPORT OF THE HEAD OF HOUSING AND COMMUNITY SERVICES - STREET TRADING CONSENT – MR DAVID BOLESWORTH

The Chairman invited all present to introduce themselves, as follows:

Councillor Hinder	– Chairman
Councillor Joy	– Vice-Chairman
Councillor Blackmore	– Committee Member
Councillor Greer	– Committee Member
Councillor Grigg	– Committee Member
Councillor B Mortimer	– Committee Member
Councillor Naghi	– Committee Member
Councillor Newton	– Committee Member
Councillor Ring	– Committee Members
Councillor Robertson	– Committee Member
John Littlemore	– Head of Housing and Community Services
Jayne Bolas	– Legal Advisor
Claire Perry	– Licensing Partnership Manager
Poppy Collier	– Clerk to the Committee
David Bolesworth	– Applicant
Lee May	– Brachers Solicitors, representing the Applicant
Ashley Green	– Gourmet Street Food Company, Objector.

It was noted that apologies were received from Environmental Health and Fremlin Walk, who had submitted objections included in the agenda. Both were unable to attend due to late notice and prior commitments, and wished their objections to be taken into account.

The Head of Housing and Community Services, John Littlemore, provided a brief overview of the application. Jayne Bolas, the legal advisor, corrected the statement at item b) of the Order of Proceedings included at p.58, clarifying that the Head of Housing and Community Services did not have the delegated power to refuse an application, applications with objections were referred to Committee for a decision after a hearing..

The applicant was invited to present his case. Lee May, representing the applicant, stated the following:

- The applicant, if granted the variation, would not be frying any onions or other food. In his view the environmental enforcement objection related to a misapprehension that he would be.
- The application accorded with the Council's policy.
- There were, in Mr May's opinion, no meaningful objections.
- When balancing the matter the benefit should be given to the applicant due to this being his livelihood.

- The applicant already had permission to sell ice creams from his barrow, in the same location at the same times. The application was to sell hotdogs from an enclosed cabinet on the same barrow. The hotdogs would not be cooked in the cabinet, but would be kept warm using steam. This type of equipment was used in cinemas and other enclosed spaces. The policy was for a presumption in favour of granting unless a reason set out in the policy applied.
- Competition should not be an argument against granting the application, as if there were not a sufficient market then Mr Bolesworth would cease to trade.
- There was not an undue concentration of similar trade in the area, and it would be unfair to Mr Bolesworth if Fremlin Walk's decision to have multiple businesses were to disrupt his ability to trade.
- There would be no noise from the equipment and no smell. An arrangement had been formed with the Royal Star Arcade for the disposal of litter.
- There would be no obstruction caused as there was already consent in place for the pitch, and the application would require only a slight change to the design of the barrow to accommodate the cabinet.
- Fourteen of those consulted on the application had not objected.
- The complaints listed in the papers consistently referred to the smell of onions. If required the applicant was happy to accept a condition of no onions and prohibiting frying of any food.
- Mr Bolesworth was a small trader for whom it was essential to maintain an income from trade over the winter months. The Committee was asked to consider the harm that would be caused to Mr Bolesworth over the loss of livelihood and balance this with the perceived harm of the smell of cooking food.

The objector Mr Ashley Green declined the opportunity to ask the applicant questions. Members were then invited to ask questions of the applicant.

In response to questions it was stated that:

- The cabinet in question worked like an electric kettle to warm the hotdogs. It featured glass sides, and was enclosed. It had to be opened in order to serve a customer. It was approximately the same size as the ice cream freezer. The ice cream freezer and slushy machine would be removed and replaced with the hotdog cabinet and hot drink machine. A light on the cabinet indicated when the hotdogs were at the optimum temperature to be served.
- This type of cabinet had been previously used on a barrow as the applicant intended to do.
- Aside from condiments there would be no additional food stuffs for customers to add to their hotdogs that would emit an odour.
- Only frankfurters would be sold on the barrow.
- Although those consulted may not have objected as they had not experienced the hot food barrow when it operated five years ago, faith could be put in the fact that those consulted would have understood the issue at hand.

- If there was a problem with smells, the council would have enforcement powers to call for a review and remedy the situation.
- A Member queried the use of a fence that was occasionally placed around the barrow. Mr May confirmed that Maidstone Borough Council had agreed the use of the land on which the barrow was pitched.

The objector Mr Green was invited to present his case and stated the following:

- The Gourmet Food Company aimed to raise the bar of food standards by offering local produce.
- As part of their consent, they were not allowed to sell frankfurters and had to sell gourmet sausages.

The applicant's representative, Mr May, was invited to ask questions of the objector, Mr Green. Mr May reiterated his view that the objection had not touched upon valid reasons for refusal.

The Committee was invited to ask questions of Mr Green. In response Members were advised that the Gourmet Food Company licence contained conditions that sausages and onions must be oven cooked.

The Committee was given the opportunity to ask questions of clarification to the applicant or objector and there were none. Both parties were then asked to sum up, beginning with the objector.

Mr Green, objecting, had no further comment.

Mr May, representing the applicant, highlighted his previous statement that there were a lack of policy-based reasons to refuse, and that refusal would impact upon Mr Bolesworth's livelihood.

The Head of Housing and Community Services was invited to comment and had nothing further to add.

Members were aware that conditions on a consent could be varied, and consent revoked at any time on the basis of sound evidence such as substantiated complaints.

The Committee asked others to leave, save for the Legal adviser and Clerk, to consider the matter before reconvening in public.

It was **RESOLVED**:

That the street trading consent currently held by Mr. Bolesworth be varied to include hot drinks and hot frankfurters in the items for sale. For the avoidance of doubt all the remaining terms of that consent are to remain the same subject to the addition of condition as follows:

- The only hot food to be sold shall be frankfurters.
- No onions are permitted to be sold.

- There shall be no cooking of food on the stall only warming of precooked frankfurters.
- The warming of frankfurters shall take place within a closed cabinet, opened when in use, only for the purpose of serving frankfurters to customers.
- There shall be no sale of ice creams and slush puppies when the sale of frankfurters and hot drinks is taking place.

Informative: if any other structures associated with the barrow and its use require planning consent the street trading consent holder is reminded that this consent does not provide permission and use should not take place until planning consent is obtained.

74. REPORT OF THE HEAD OF HOUSING AND COMMUNITY SERVICES - OUTCOME OF THE CONSULTATION ON THE DRAFT STATEMENT OF GAMBLING POLICY 2005 FOR 2016 -2019

John Littlemore, Head of Housing and Community Services, introduced the report detailing the outcome of the consultation on the Draft Statement of Gambling Principles for 2016-19.

Coral had responded and Gosschalks had submitted suggestions for consideration (attached as appendix B to the report).

The Committee was advised that a full review would be undertaken in 2016. It was recommended that the current principles be approved with provision to take into account the suggestions made by Gosschalks during the full review.

In response to questions it was confirmed the risk of being judicially reviewed was low due to the fact that Gosschalks' suggestions would be taken into account in the drafting of a fully revised Statement.

RESOLVED:

1. That the draft Statement of Gambling Principles attached as Appendix A to the report of the Head of Housing and Community Services be approved for recommendation to full Council for adoption.
2. That the suggestions for change to the policy made by Gosschalks be noted.

75. REPORT OF THE HEAD OF HOUSING AND COMMUNITY SERVICES - DRAFT STATEMENT OF LICENSING POLICY

The Head of Housing and Community Services, John Littlemore, presented the report on responses to consultation on the draft Statement of Licensing Policy 2016-2021. It was explained that, if agreed by the

Committee, it would then be presented to Council on 9 December 2015 for adoption.

In response to questions Mr Littlemore confirmed that his delegated authority was to make the amendments already listed at appendix B of the report, and any other minor corrections.

RESOLVED: That the Statement of Licensing Policy at Appendix A to the report of the Head of Housing and Community Services be approved for recommendation to full Council, and the Head of Housing and Community Services be authorised to make the amendments identified, and any other minor amendments, in Appendix B to the report.

76. URGENT REPORT OF THE HEAD OF HOUSING AND COMMUNITY SERVICES - LICENSING TRAINING

The Head of Housing and Community Services, John Littlemore, requested that this urgent item be withdrawn due to the intention to bring a fuller report to the next meeting of the Committee, which was agreed by the Chairman.

Mr Littlemore took the opportunity to provide a verbal update advising Members that a letter would be sent to those who had not attended training to confirm a date for this to be undertaken.

RESOLVED: That the verbal update of the Head of Housing and Community Services be noted.

77. DURATION OF MEETING

6.30 p.m. to 8.05 p.m.

Licensing Committee

28 January 2016

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Scrap Metal Dealer - Licence Fees 2016/2017

Final Decision-Maker	Licensing Committee
Lead Director	John Littlemore, Head of Housing and Community Services
Lead Officer/Report Author	Claire Perry, Licensing Partnership Manager
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. That the Licensing Committee approve the fee levels as set out in paragraph 2.23 of the report for implementation on 1 April 2016.

This report relates to the following Five Year Plan Key Objectives:

- Great Place

It is proposed to set fees which enable the authority to be self-financing with respect to this service.

Timetable

Meeting	Date
Licensing Committee	28 January 2016

Scrap Metal Dealer - Licence Fees 2016/2017

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The authority is required to review the fees set for the administration of the Scrap Metal Dealers Act 2013. This ensures the Council complies with its statutory duty and that the licensing of Scrap Metal Dealers is self financing, in accordance with the Council's Financial Strategy.
 - 1.2 A fees model, similar to the one used to first set the Gambling Act fees in 2007, was used to determine the proposed fees for 2016/2017.
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2. INTRODUCTION AND BACKGROUND

- 2.1 The 2013 Act repeals the Scrap Metal Dealers Act 1964 (and related legislation) and Part 1 of the Vehicles (Crime) Act 2001, creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries. The Act maintains local authorities as the principal regulator, but gives them the power to better regulate these industries by allowing them to refuse to grant a licence to 'unsuitable' applicants and a power to revoke licences if the dealer becomes 'unsuitable'.
- 2.2 The licensing regime introduced by the Act is very similar to the licensing of taxi drivers and the issuing of Personal Licences under the Licensing Act. The suitability of applicants is based on a number of factors as outlined in the Act, including any unspent relevant criminal convictions. Whilst it is expected that straightforward applications will be decided under delegation to Officers, any applications with objections where the applicant wishes to make representations would need to be heard at a hearing, with an option to appeal their decision to the Magistrates' Court.

Licences

- 2.3 Under the Act there are two types of licence; a site licence and a collector's licence, both of which will be administered by the local authority. Site managers are named on site licences. Collectors need a licence in each local authority area in which they collect. Both types of licence last for three years. Since the introduction of these licences, there has not been a review of the fees. The licence initially issued in 2013 will be due for renewal at the end of this year.
- 2.4 The local authority must be satisfied that the applicant is a suitable person to hold a licence before it can grant a licence. The scope of this requirement will include applicants, site managers, directors, secretaries and shadow directors of companies.

- 2.5 The Council requires a photograph to accompany the application for a Collector's Licence. The photograph forms part of the licence document and enables Officers to identify licensed collectors.

Determining Applications

- 2.6 Section 3 of the Act states that a Council must not issue a licence unless it is satisfied the applicant is a suitable person to carry on a business as a scrap metal dealer, identified via a 'suitability test'. In the case of a partnership, the suitability of each partner will be assessed. In the case of a company, it means assessing the suitability of any directors, company secretaries, or shadow directors.
- 2.7 In assessing an applicant's suitability, the Council can consider any information considered relevant. The Council will be in a stronger position to defend any challenges to a decision to refuse a licence where the decision is based on the factors specifically listed in legislation, which includes whether:
- a) The applicant or site manager has been convicted of a relevant offence or subject to any relevant enforcement action (Statutory Guidance has been published and is attached as Appendix B);
 - b) The applicant has previously been refused a scrap metal dealer's licence or an application to renew a licence has been refused.
- 2.8 The applicant is required to complete an application and declare that the information provided is correct. The applicant commits an offence under the Act should they make a false statement, or recklessly make a statement which is false in a material way.
- 2.9 The authority will want to satisfy itself that an applicant is suitable by checking they do not have a previous relevant conviction, have not been the subject of enforcement action, or have been refused a licence. There is no requirement under the Act for applicants to provide a Basic Disclosure Certificate (BDC). However, this authority requires applicants to submit a Basic Disclosure Certificate provided by Basic Disclosure Scotland as part of the application process. The Council will require the certificate to be within 30 days of its issue when presented with the application.
- 2.10 Should an applicant refuse to supply a BDC this would be grounds for the Council to consider what further information would be needed to judge whether the applicant was suitable to hold a licence. Refusal to submit a Basic Disclosure Certificate would be grounds for the Council to decline to proceed with the application.
- 2.11 The Council requires an applicant to provide a Basic Disclosure Certificate (including standard and enhanced disclosures) that are no more than one month old at the time the application is submitted. The authority recognises that a Basic Disclosure Certificate will reveal only any unspent convictions on the Police national computer. The Certificate will not provide details of convictions for relevant offences secured by the Environment Agency or equivalent, or other local authorities. For any new applications, the authority will consult with the

Environment Agency or equivalent and the Police. The authority will reserve the right to also contact any other local authority it feels necessary to determine the suitability of an applicant(s).

- 2.12 In the case where a Basic Disclosure Certificate highlights a relevant conviction, the authority will seek further information from the Police to enable the authority to better assess the applicant(s) suitability. The authority will also check public records held by the Environment Agency or equivalent to assess if any enforcement action has been taken against an individual. In certain circumstances it may be necessary to make direct contact with the above to assess if any on-going enforcement action is pending, which may not be held on a public register at the time of application.
- 2.13 If the Council should receive information that an applicant(s) has been convicted of a relevant offence, a judgement will be made whether to refuse or grant the licence. The Council will take into account any information received by an applicant or other bodies. The Council will consider the nature of the offence or enforcement action, the gravity of the offence or enforcement action, when the enforcement action was taken, or any other relevant information as defined by the Act.

Representations

- 2.14 In the case where the authority rejects an application(s), or revokes, or varies a licence, the Council will notify the applicant or licence holder by way of a written Notice. The Council will advise the applicant(s) or licence holder what the authority proposes to do and the reasons behind the action. The Notice will stipulate that the applicant/licence holder has the opportunity to make a representation, or let the authority know that they wish to. The applicant/licence holder has up to 14 days from the date of the Notice to respond.
- 2.15 If the applicant/licence holder does not make a representation, or does not say that they wish to in that time period, then the Council can refuse the application, or revoke, or vary the licence. Where the applicant states they want to make representations, the authority will provide a further reasonable period in which to do so. If the applicant fails to provide a representation within the agreed period then the authority will refuse the application, or revoke, or vary the licence.

Hearings

- 2.16 Where the applicant makes representations, the authority has to consider them in accordance with the Act. If the applicant wishes to make oral representations the authority will arrange a hearing. It is anticipated that these hearings will follow the procedures for hearings under the Licensing Act 2003.
- 2.17 Should the Council refuse an application, or revoke or vary a licence, the applicant/licence holder will receive a Notice of Decision, which will set out the Council's reasons for its decision. The Notice will inform the applicant, or licence holder, of their right to appeal to the Magistrates' Court and, where the licence has been revoked or varied, the date under which that comes into effect.

Conditions

2.18 In cases where the applicant or any site manager has been convicted of a relevant offence, or where the authority is revoking a licence, the authority can impose conditions on the licence. The authority can impose one or both of two conditions, which specify that:

- the dealer can receive scrap metal only between 9.00am and 5.00pm on any day, in effect limiting the dealer's operating hours; and/or
- any scrap metal received has to be kept in the form the dealer received it for a set period of time, which cannot be more than 72 hours.

2.19 There is no equivalent set of conditions for collectors.

Fees

2.20 The Act provides that an application for a licence must be accompanied by a fee. The fee will be set locally by each local authority on a cost recovery basis. Local authorities will have a duty to have regard to guidance issued by the Secretary of State, which outlines the issues that should be considered when setting the fee and what activities the fee can cover. This fee will be an essential component as it will provide local authorities with the funding they need to administer the legislation and ensure compliance (Appendix A).

2.21 The proposed fees have been calculated having regard to that Guidance (Appendix A) and the fees model, which is similar to the one used to first set the Gambling Act fees in 2007.

2.22 The fees have been calculated by examining the time it takes to carry out the various tasks in processing the application and who in the authority is likely to carry them out. The hourly rates of staff are fed in to a spread sheet to calculate costs for each type of activity.

2.23 They are as follows:

	Proposed	Current
Site Licence – Grant (3 years)	£460	£480
Site Licence - Renewal (3 years)	£390	£410
Collectors Licence – Grant/renewal (3 years)	£280	£310
Minor administrative change to licence	£30	£31

Variation - change of site manager	£165	£175
Variation from collector to site licence	£200	£225
Variation from site to collector licence	£130	£130

3. AVAILABLE OPTIONS

- 3.1 Members may decide to leave the fee levels as they are and not increase the fees to cover the cost of delivering this function. This would mean there would be a shortfall in income against the budget set for the function.
- 3.2 Members may approve the fees as set at in paragraph 2.23.
- 3.3 Members may increase, to require a fee higher than the cost of delivering the service. However, this would not be in accordance with Guidance to which Members are required to have regard. If there is no clear justification for costs recovery of administering the application this may be subject to challenge.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Members are asked to approve the proposed fees set out in paragraph 2.23 of the report.

5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 5.1 The fees will be charged with respect to new, existing and renewal applications from 1 April 2016 and published on our website.

6. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Impact on Corporate Priorities	No implications have been identified	[Head of Service or Manager]

Risk Management	No implications have been identified	[Head of Service or Manager]
Finance and other resources	It is necessary for the Council to deliver a balanced budget and cover the costs of providing this service.	[Section 151 Officer & Finance Team]
Staffing	No implications have been identified	[Head of Service]
Legal	Legal implications are set out in the body of the report.	Jayne Bolas, Solicitor Team Leader(Contentious)
Equality Impact Needs Assessment	No implications have been identified	[Policy & Information Manager]
Environmental/Sustainable Development	No implications have been identified	[Head of Service or Manager]
Community Safety	No implications have been identified	[Head of Service or Manager]
Human Rights Act	No implications have been identified	[Head of Service or Manager]
Procurement	No implications have been identified	[Head of Service & Section 151 Officer]

7. REPORT APPENDICES

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

- Appendix A: Home Office: Scrap Metal Dealers Act 2013: guidance on licence fee charges 1 April 2016 – 31 March 2017
- Appendix B: Home Office: Scrap Metal Dealers Act 2013 Determining suitability to hold a scrap metal dealer's licence

8. BACKGROUND PAPERS

None

Scrap Metal Dealer Act 2013: guidance on licence fee charges

Context

The Scrap Metal Dealers Act 2013 (referred to in this guidance as the 2013 Act) received Royal Assent on the 28 February 2013, delivering much needed reform of the scrap metal sector. The 2013 Act will provide effective and proportionate regulation of the sector, creating a more robust, local authority run, licensing regime that will support legitimate dealers yet provide the powers to effectively tackle unscrupulous operators. It will raise trading standards across the whole sector.

Introduction

The 2013 Act will allow local authorities to decide who should and should not be licensed, allowing them to refuse a licence upon application or to revoke a licence at any time if they are not satisfied that the applicant is a suitable person to carry on business as a Scrap Metal Dealer. The act also creates closure powers for unscrupulous dealers who operate without a licence. It extends the record keeping requirements placed upon scrap metal dealers and requires the verification of the people Scrap Metal Dealers are transacting with. The act will integrate the separate regulation for motor salvage operators with the scrap metal sector and bring to an end the cash exemption given to some collectors under the 1964 Act.

Finally, the 2013 Act creates a fee raising power, to allow local authorities to recover the costs stemming from administering and seeking compliance with the regime. This element of the legislation will be the focus of this guidance.

The intention is for the act to be implemented in October 2013.

Licensing requirements placed upon scrap metal dealers

Section one of the 2013 Act requires a scrap metal dealer to obtain a licence in order to carry on business as a scrap metal dealerⁱ. It will be an offence to carry on a business as a scrap metal dealer in breach of the requirement to hold a licence. This offence is punishable on summary conviction with a fine not exceeding level 5 on the standard scale. In addition, Schedule 1(6) of the 2013 Act provides that an application must be accompanied by a fee set by the authority.

Aim and scope

Local authorities will be responsible for administration and compliance activity in relation to the 2013 Act. This guidance is provided to local authorities in relation to the carrying out of their fee raising function. It also provides information for the benefit of those who will be applying for a scrap metal dealer's licence and the general public. This guidance applies to local authorities in England and Wales and is produced in accordance with the 2013 Act.

Legal status

Schedule 1(6) of the 2013 Act provides that an application must be accompanied by a fee set by the local authority. In setting a fee, the authority must have regard to any guidance issued from time to time by the Secretary of State with the approval of the Treasury. This Guidance is therefore binding on all licensing authorities to that extent.

What costs can local authorities charge for when issuing a licence?

The 2013 Act provides that an application for a licence must be accompanied by a fee set by the local authority. This fee raising power is an essential component of the legislation as it will provide local authorities with the funding they need to administer the regime and ensure compliance.

The power to set fees has been passed to individual local authorities, so that any fees levied in each local area is set by reference to the actual costs to each authority. The EU services directive states that a licence fee can only be used to pay for the cost associated with the licensing process. In effect, each local authority must ensure that the income from fees charged for each service does not exceed the costs of providing the service.

LAs should specify fees for each category of application. Specifically we would expect a fee to be specified for the assessment of an application for a licence, the assessment of an application to vary a licence, and the assessment of an application for licence renewal.

Local authorities should specify fees which are payable by licence applicants for the assessment and administration activity within the new licensing regime brought about by the 2013 Act. They should do this by identifying what they need to do to assess the type of licence in question and calculating their best estimate of the cost to be incurred by the LA. The authority will then be able to calculate a best estimate of unit cost for each case.

In effect, the costs of a licence should reflect the time spent assessing and administering applications, processing them, having experienced licensing officers review them, storing them, consulting on the suitability of an applicant, reviewing relevant offences, the decision on whether to issue a licence, as well as the cost of issuing licences in a format that can be displayed. Consulting the local authority's enforcement records in order to determine the suitability of the applicant is chargeable within the licence fee costs as are costs associated with contested licence applications.

Registering authorities should review fees regularly to check whether they remain appropriate.

Can a local authority charge for enforcement activity?

The licence fee cannot be used to support enforcement activity against unlicensed scrap metal dealers. Any activity taken against unlicensed operators must be funded through existing funds. Such activity against unlicensed operators includes issuing closure notices; with applications for closure orders subsequently made to a magistrates court. The cost of applying to the Magistrates Court for a warrant (Section 16(5)(6) and (7) of the 2013 Act) for entry to unlicensed premises, by force if necessary, will incur legal costs to be borne by the local authority and police.

What are the different types of licences?

There are two types of licence specified within the act, one is for a site licence and the other is for a mobile collector licence (carrying on business otherwise than at a site). The licence authorises the licensee to carry on business as a scrap metal dealer at the sites listed in it (in the case of a site licence) or within the local authority area (in the case of a mobile collector's licence).

Site licences

A site licence requires all of the sites at which the licensee carries on the business as a scrap metal dealer within the local authority area to be identified and a site manager to be named for each site. In doing so, they will be permitted to operate from those sites as a scrap metal dealer, including transporting scrap metal to and from those sites from any local authority area.

Collectors licences

A collector's licence authorises the licensee to operate as a mobile collector in the area of the issuing local authority, permitting them to collect any scrap metal as appropriate. This includes commercial as well as domestic scrap metal.

The licence does not permit the collector to collect from any other local authority area. A separate licence should be obtained from each local authority from which the individual wishes to collect in. A collector's licence does not authorise the licensee to carry on a business at a site within any area. Should a collector wish to use a fixed site, they will need to obtain a site licence from the relevant local authority.

The Act 2013 also specifies that a licence will be issued by the local authority in whose area a scrap metal site is situated, or (in respect of a mobile collector) in the area that the collector operates.

Do different fees apply?

Yes. Fees charged for a site licence would reflect the extra work involved in processing these licences and will vary from a collector's licence.

Display of licences

The form in which a licence is issued must enable it to be displayed in accordance with section ten of the 2013 Act. All licensees are therefore required to display a copy of their licence. For site operators the licence must be displayed in a prominent place in an area accessible to the public. For mobile collectors, it must be in a manner which enables the licence to be easily read by a person outside the vehicle. A criminal offence is committed by any scrap metal dealer who fails to fulfil this requirement. This offence is punishable on summary conviction with a fine not exceeding level 3 on the standard scale.

The cost of providing a licence in a form which can be displayed should be included in the local authority licence fee charges.

Police objections to licence applications

The police may object to a licence application where they believe that the applicant is not a suitable person as defined within the act. The police can object where, for example, the applicant has been convicted of a relevant offence. LAs should also consider representations from other organisations or individuals in considering the applicant's suitability

Where the police do object, the local authority should take this into consideration but must use their own judgement and discretion when taking a licence decision. The local authority must allow for the person whose licence is about to be refused or revoked to be afforded the right to make representations. The local authority considering the matter must restrict its consideration to the issue of suitability of applicant and provide comprehensive reasons for

its decision.

Costs associated with considering oral and written representations should be included in licence fee charges.

Appeals

There is a right of appeal to the Magistrates' Court against a decision to refuse a licence application, to include a condition within the licence, to revoke the licence or to vary the licence. The costs associated with appeals and the costs of defending an appeal in the Magistrate Court should not be included in licence fee charges.

The costs associated with defending a Judicial Review into whether the local authority has failed to have regard to the guidance on fees is not chargeable under the licence regime.

Revocation of a licence and formulating and imposing licence conditions

If a licence has been granted, it may be revoked or licence conditions imposed on a scrap metal dealer if the subsections within Clause 4 of the Scrap Metal Dealers Act are triggered. A local authority may impose conditions pending an appeal against revocation (section 4 (7)) or if the applicant or site manager has been convicted of a relevant offence (section 3 (8)).

Variation of licence

Schedule 1 paragraph 3(1) indicates that a local authority may, on an application, vary a licence by changing it from one type to another and (2) if there is a change in any of the matters mentioned in section 2(4)(a), (c) or (d) or (6)(a).

These changes should be recorded by the local authority. The applicant is also under a duty to notify any convictions for relevant offences to the local authority. These measures ensure that a single record will be held of the licence holder's history in terms of licensing matters.

National Register of Scrap Metal Dealers

Whilst a local authority can recover any costs incurred in transmitting information about a licence, the costs which the Environment Agency incurs are not chargeable under the licence regime.

How long will a licence be valid for?

Schedule 1 paragraph 1 of the 2013 Act specifies the terms of a licence. It indicates that a licence expires at the end of the period of 3 years beginning with the day on which it is issued.

Additional regulations and guidance

The Home Office will be publishing regulations in relation to relevant offences and the identification required to sell scrap metal over the summer of 2013. These regulations will be published on www.gov.uk. We will also be working with the Local Government Association, the British Metal Recycling Association and British Transport Police to produce additional guidance on the requirements of the new act.

The Local Government Association guidance will include a breakdown of reasonable timescales for each of the activities associated with setting a fee.

Annex A - Definitions

What is a local authority?

‘Local authority’ means —

- (a) in relation to England, the council of a district, the Common Council of the City of London or the council of a London borough;
- (b) in relation to Wales, the council of a county or a county borough.

What is a scrap metal dealer?

21 ‘Carrying on business as a scrap metal dealer’ and ‘scrap metal’

(2) A person carries on business as a scrap metal dealer if the person—

- (a) carries on a business which consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought, or
- (b) carries on business as a motor salvage operator (so far as that does not fall within paragraph (a)).

What is a mobile collector?

‘Mobile collector’ means a person who—

- (a) carries on business as a scrap metal dealer otherwise than at a site, and
- (b) regularly engages, in the course of that business, in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door.

What is a motor salvage operator?

(4) For the purposes of subsection (2)(b), a person carries on business as a motor salvage operator if the person carries on a business which consists —

- (a) wholly or partly in recovering salvageable parts from motor vehicles for re-use or sale and subsequently selling or otherwise disposing of the rest of the vehicle for scrap,
 - (b) wholly or mainly in buying written-off vehicles and subsequently repairing and reselling them,
 - (c) wholly or mainly in buying or selling motor vehicles which are to be the subject (whether immediately or on a subsequent re-sale) of any of the activities mentioned in paragraphs (a) and (b), or
 - (d) wholly or mainly in activities falling within paragraphs (b) and (c).
-



Home Office

Scrap Metal Dealers Act 2013

Determining suitability to hold a scrap metal dealer's licence

Statutory guidance for local authorities in England and Wales
First publication: issued 1 October 2013

Introduction

The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013. The majority of the provisions within the Act commence on 1 October 2013 including the requirement in section 1(1) to be authorised by a licence in order to carry on business as a scrap metal dealer. Section 3(1) of the Act states that a local authority must not issue or renew a scrap metal dealer's licence unless it is satisfied that the applicant is a suitable person to carry on business as a scrap metal dealer. Section 3(6) states that a local authority must have regard to any guidance on determining suitability issued by the Secretary of State.

Status of the guidance

This is statutory guidance and local authorities are under a duty to have regard to it.

Whose suitability should be assessed?

When assessing an application for a scrap metal dealer's licence, you should consider the suitability of:

- the individual applicant;
- each partner within a partnership;
- any director(s), secretary(s) or shadow director(s) of a company.

You should consider whether a site manager (if an application for a site licence is submitted) has been convicted of a relevant offence or relevant enforcement action and whether this impacts on the applicant's suitability to hold a scrap metal dealer's licence.

What information may you have regard to?

Under section 3(2) of the Scrap Metal Dealers Act 2013, you may have regard to any information which you consider to be relevant when determining the suitability of a person to hold a scrap metal dealer's licence, including:

1. whether the applicant or any site manager has been convicted of any relevant offence

Under Schedule 1, Para 2 (1) (j), of the Act, a person applying for a scrap metal dealer's licence must provide details of any conviction for a relevant offence. The relevant offences, prescribed by the Secretary of State, can be found in Part 1 and 2 of the Schedule of The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 using the following link:

<http://www.legislation.gov.uk/id/ukSI/2013/2258>. Under Regulation 2, a relevant offence is also "attempting or conspiring to commit any offence falling within the Schedule; inciting or aiding, abetting, counselling or procuring the commission of any offence falling within the Schedule, and an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) committed in relation to any offence falling within the Schedule". These offences should also be considered when determining suitability.

- A conviction for a relevant offence should not automatically lead to the refusal of a scrap metal dealer's licence. You may consult your local police force (section 3 (7)) for further details about the offence including both the seriousness of the offence and the date of when it was committed. Once you have this, you should consider it alongside any other information you may have regard to when determining suitability. If a site manager has been convicted of a relevant offence, the same process applies.

- Under section 4 (5) of the Act, if a person has been convicted of a relevant offence or is convicted of a relevant offence once a licence has been issued, you may wish to consider, imposing one or both of the following conditions on the licence if you think this is necessary:
 - that the dealer must not receive scrap metal except between 9am and 5pm on any day;
 - that all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.
 - These conditions are set out at section 3 (8) of the Act and could be applied until you are satisfied that the inclusion of such a condition in the licence is no longer necessary under all the circumstances.
 - If, during your checks, you discover that the applicant has a relevant conviction which was not detailed in a person's application you should request further information from the applicant (Schedule 1, Para 4). You should also consider whether this is a deliberate omission and therefore impacts on suitability. Making a false statement in an application is a criminal offence (Schedule 1, Para 5) and, where this has happened, it will be at your discretion as to whether you refer this to the police.
 - Only unspent convictions should be considered for individual applicants, site managers, partnerships and companies.
2. whether the applicant or any site manager has been the subject of any relevant enforcement action
- The relevant enforcement action you may have regard to when considering suitability to hold a scrap metal licence has been prescribed in Regulation 3 of The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 by the Secretary of State which can be found at: <http://www.legislation.gov.uk/id/uksi/2013/2258>.
 - Under Regulation 3(a), a person is the subject of relevant enforcement if *'the person has been charged with an offence specified in the Schedule to these Regulations, and criminal proceedings in respect of that offence have not yet concluded'*. However, you should **not** refuse a licence on this point alone as the action (pending prosecution) is ongoing. If an applicant details a pending prosecution in their application form, you should note this and monitor the outcome. Only once the action is completed should you consider whether the outcome, if a conviction, impacts on a person's suitability to hold a scrap metal dealer's licence and take any necessary action for instance to impose conditions or, ultimately, to revoke.
 - Under Regulation 3 (b), a person is the subject of relevant enforcement action if *"If an environmental permit granted in respect of the person under the Environmental Permitting (England and Wales) Regulations 2010 has been revoked in whole, or partially revoked, to the extent that the permit no longer authorises the recovery of metal"*. You should consult the Environment Agency (in England) or Natural Resources Wales (section 3 (7)) to find out the reasons for the whole or partial revocation and consider if the reasons impact on their suitability.
3. any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal)
- You should check your local authority area's records to find out whether a scrap metal dealer has previously been refused a scrap metal dealer's licence, taking into consideration

the reasons for the refusal. Section 3 (7) of the Act states that you may consult other persons regarding the suitability of an applicant, including in particular, any other local authority or officer of a police force. It will be undesirable for a person who has been refused a licence by one local authority area to be issued a licence by another, therefore if a person has been refused a licence in a different local authority area it will be important to scrutinise the reasons for the refusal. For example, the refusal may have been given because the applicant has not demonstrated that there will be adequate procedures in place to comply with the Act (section 3 (2) (f)) but the applicant has now implemented sufficient changes and the reason no longer applies.

4. any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal)

- You should routinely check whether an applicant is on the Environment Agency's/Natural Resources Wales' register of permits and registrations. If you have any concerns or would like to find out further information you should contact the Environment Agency (in England) or Natural Resources Wales. Additionally, if the applicant does not appear on the register and, therefore, does not hold a relevant environmental permit, exemption, or registration, then you may also wish to consult the Environment Agency or Natural Resources Wales as the applicant should not be operating as a scrap metal dealer without one or other of these.

5. any previous revocation of a scrap metal licence (and the reasons for the revocation)

- You should routinely check the register of scrap metal licences, hosted by the Environment Agency/Natural Resources Wales, to find out if a scrap metal dealer has had a licence revoked in another local authority area. If a person has had a licence revoked, you should contact that local authority to understand the reasons why the licence was revoked (section 3 (7)). It will be important for you to scrutinise the reasons for refusal and consider whether these still apply. The reasons for revoking a licence may not always impact on suitability (section 4 (1) (2)).

6. whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with

- Where you have information that raises concerns about the adequacy of procedures that the applicant or site manager has in place to comply with section 11 (verifying the supplier's identity), section 12 (offence of buying scrap metal for cash) or section 15 (records: supplementary), you may wish to obtain further information about how the applicant will ensure compliance with the requirements of the Act. For example, where you have concerns about the procedures around the offence of buying scrap metal for cash, you may wish to check the details of the back account which the applicant proposes to use. This information should be included in the application form (Schedule 1, Para 2 (1) (i)).

Further information

Although section 3 (2) sets out some information you may have regard to, you may request any relevant information from the applicant (either when the application is made or later) to help you consider the application (Schedule 1, Para 4 (1)), this will include determining suitability.

Reasons for refusal

If a licence application is refused, you should provide full reasons for your decision. This will not only help the applicant to understand the refusal but will allow a Magistrates' Court to clearly understand the reasons should the applicant appeal the decision.

Agenda Item 9

Licensing Committee

28 January 2016

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Sexual Entertainment Venues - Licence Fees 2016/2017

Final Decision-Maker	Licensing Committee
Lead Director	John Littlemore, Head of Housing and Community Services
Lead Officer/Report Author	Claire Perry, Licensing Partnership Manager
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. That the Licensing Committee approve the fee levels as set out in paragraph 2.4 of the report for implementation on 1 April 2016.

This report relates to the following Five Year Plan Key Objectives:

- Great Place

It is proposed to set fees which enable the authority to be self-financing with respect to this service.

Timetable

Meeting	Date
Licensing Committee	28 January 2016

Sexual Entertainment Venues - Licence Fees 2016/2017

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The authority is required to review the fees set for the administration of the Local Government (Miscellaneous Provisions) Act 1982. This ensures the Council complies with its statutory duty and that the licensing of Sexual Entertainment Venue premises is self financing, in accordance with the Council's Medium Term Financial Plan.
 - 1.2 A fees model, similar to the one used to first set the Gambling Act fees in 2007, was used to determine the proposed fees for 2016/2017.
-

2. INTRODUCTION AND BACKGROUND

- 2.1 The fees have been calculated by examining the time it takes to carry out the various tasks in processing the application and who in the authority is likely to carry them out. The hourly rates of staff are fed in to a spreadsheet (original produced by LACORS to calculate the Gambling Act fees) to calculate costs for each type of activity.
- 2.2 The type of tasks involved in Sexual Entertainment Venue premises application include: assistance to applicant, checking of an application upon receipt, processing the application, assessing representations for relevance, undertaking informal mediation, and undertaking site visits where necessary. Once processed, tasks then involve: determining the licence or arranging a hearing and holding a hearing, notification of the decision, preparation and issuing of the licence, updating the records/register, appeal preparation and holding an appeal hearing.
- 2.3 The costs associated with an appeal and hearings have been estimated and an estimation has been made as to the likelihood of these events occurring, which has been entered into the final calculations. The risk of appeals and hearings occurring has been based on the experience of the Licensing Partnership.

Proposed Fees

- 2.4 The result of the calculations is that a fee of £4,100 is proposed to cover the cost for a new application or a renewal application. The existing fee is £4,000. The fee for an application to transfer a licence is proposed as £2,000.

3. AVAILABLE OPTIONS

- 3.1 Members may decide to leave the fee levels as they are and not increase the fees to cover the full cost of delivering this function. This would mean there would be a shortfall in income against the budget set for the function. The shortfall would have to be covered from other areas of income within the Licensing Team.
- 3.2 Members may approve the fees as set at in paragraph 2.4.
- 3.3 Members may require a fee higher than the cost of delivering the service. However, the fee is statutorily required to be reasonable and case law indicates that compliance with the EU Services Directive and Regulations requires that only the cost of administering the application and monitoring compliance be included in the fee. If the Council were to exceed this without justification it may be subject to challenge..
-

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Members are asked to approve the proposed fees set out in paragraph 2.4 of the report.
-

5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 5.1 The fees will be charged with respect to new applications and existing premises. Existing licensees will be notified at the time of renewal and the new fees will be displayed on the Council's website.
-

6. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Impact on Corporate Priorities	No implications have been identified	[Head of Service or Manager]
Risk Management	No implications have been identified	[Head of Service or Manager]
Finance and other resources	It is necessary for the Council to deliver a balanced budget and cover the costs of providing this service.	[Section 151 Officer & Finance Team]
Staffing	No implications have been identified	[Head of Service]

Legal	Legal implications are set out in the body of the report.	Jayne Bolas, Solicitor Team Leader (Contentious)
Equality Impact Needs Assessment	No implications have been identified	[Policy & Information Manager]
Environmental/Sustainable Development	No implications have been identified	[Head of Service or Manager]
Community Safety	No implications have been identified	[Head of Service or Manager]
Human Rights Act	No implications have been identified	[Head of Service or Manager]
Procurement	No implications have been identified	[Head of Service & Section 151 Officer]

7. REPORT APPENDICES

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

None

8. BACKGROUND PAPERS

None

Agenda Item 10

Licensing Committee

25 January 2016

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Gambling Act 2005: Licence Fees 2016/2017

Final Decision-Maker	Licensing Committee
Head of Service	John Littlemore, Head of Housing and Community Services
Lead Officer/Report Author	Claire Perry, Licensing Partnership Manager
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. That the Licensing Committee approve fee levels as set out in Appendix A of the report for implementation on 1 April 2016.

This report relates to the following Five Year Plan Key Objectives:

- Great Place

It is proposed to set fees which enable the authority to be self-financing with respect to this service.

Timetable

Meeting	Date
Licensing Committee	28 January 2016

Gambling Act 2005: Licence Fees 2016/2017

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The authority is required to review the fees set for the administration of the Gambling Act 2005. This ensures the Council complies with its statutory duty and that the licensing of Gambling premises is self-financing, in accordance with the Council's Financial Strategy.
 - 1.2 A fees model, similar to the one used to first set the Gambling Act fees in 2007, was used to determine the proposed fees for 2016/2017.
-

2. INTRODUCTION AND BACKGROUND

- 2.1 The Gambling Act 2005, Section 212 gives the Secretary of State power to make regulations prescribing the fees payable to the Licensing Authority. It also gives the power to devolve to Licensing Authorities in England and Wales the freedom to set fees for premises licence applications, subject to any constraints the Secretary of State may prescribe, which includes a maximum fee level.
- 2.2 The government has decided that for England and Wales, Licensing Authorities will determine their own fees for gambling premises licence but that the Secretary of State will prescribe the maximum fee payable for each category of licence.
- 2.3 The maximum levels have been included in Appendix A in brackets for comparison purposes. The previous year's fees are printed in italics for your information. Those cells that are shaded in the body of the table are where we have reached the maximum fee level that may be set.
- 2.4 There is an initial fee to cover the cost of application and an annual fee due every year.
- 2.5 Licensing Authorities have been asked to set fees to ensure full cost recovery and that the fee levels represent fairness and value for money for the gambling industry. All Licensing Authorities must set their fees upon a cost recovery basis only and will be required to review their fee levels on an annual basis to ensure this.
- 2.6 Fees must be set for all types of premises licences and Temporary Use Notices (TUN's).

Premises type

- Casinos
- Bingo

- Betting (off-course)
- Tracks (on-course betting)
- Adult Gaming Centres
- Family Entertainment Centres

2.7 Fees must be set by each Licensing Authority for the following:

- Application for a (new) premises licence
- Application to vary a premises licence
- Application to transfer the licence
- Application for re-instatement of the premises licence
- Application for a provisional statement
- Application for a premises licence for a premises which already has a provisional statement
- Fee to accompany a request for a copy of the premises licence
- Fee to accompany a notification of change of circumstances (only relevant change is that of address)
- Fee to accompany a temporary use notice

2.8 The Borough currently has eighteen gambling premises that will be affected by the proposed fee increases. The premises are:

1	Jenningsbet	6 Senacre Square, Maidstone	Betting Premises
2	Paddy Power	9 Gabriels Hill, Maidstone	Betting Premises
3	William Hill	70 - 72 Week Street, Maidstone	Betting Premises
4	Coral Racing Ltd	97 High Street, Maidstone	Betting Premises
5	Betfred	2 - 4 Middle Row, Maidstone	Betting Premises
6	Betfred	Flat 3, Mid Kent Shopping Centre, Castle Road, Maidstone	Betting Premises

7	Ladbrokes	Subway Unit 3 Hermitage Walk, Hermitage Lane, Maidstone	Betting Premises
8	Jenningsbet	78 Week Street, Maidstone	Betting Premises
9	William Hill	429 Willington Street, Maidstone	Betting Premises
10	Coral	Granada House, Gabriels Hill, Maidstone	Betting Premises
11	Coral	1 The Parade, Staplehurst	Betting Premises
12	Coral	1 Church Road, Tovil	Betting Premises
13	Coral	Valence House, Sutton Road, Maidstone	Betting Premises
14	Cashino	74 Week Street, Maidstone	Adult Gaming Centre
15	Cashino	74 Week Street, Maidstone	Adult Gaming Centre
16	Quicksilver	15 Earl Street, Maidstone	Adult Gaming Centre
17	Road Chef	Maidstone Motorway Service Area, M20 J8 Slip Coastbound Off	Adult Gaming Centre
18	Gala Club	Lower Stone Street, Maidstone	Bingo Club

2.9 The fees have been calculated by examining the time it takes to carry out the various tasks in processing the application and who in the authority is likely to carry them out. The hourly rates of staff are fed in to a spreadsheet (originally produced by LACORS to calculate the Gambling Act fees) to calculate costs for each type of activity.

- 2.10 The type of tasks involved in Gambling premises application include: assistance to applicant, checking of an application upon receipt, processing the application, assessing representations for relevance, undertaking informal mediation, undertaking site visits where necessary. Once processed, types of task include: determining the licence or arranging a hearing and holding a hearing, notification of the decision, preparation and issuing of the licence, updating the records/register, appeal preparation, holding an appeal hearing and visits to ensure compliance.
- 2.11 The costs associated with an appeal and hearings have been estimated and an estimation has been made as to the likelihood of these events occurring, which has been entered into the final calculations. The risk of appeals and hearings occurring has been based on the experience of the Licensing Partnership.

Proposed Fees

- 2.12 The result of the calculations is set out in Appendix A of the report. There are three figures for each licence type/fee. The figure in bold font is the new proposed fee, the figure in brackets is the maximum fee set by the legislation and the figure in italics is the existing fee. Those cells that are shaded in the body of the table are where we have reached the maximum level of fee that can be set.

3. AVAILABLE OPTIONS

- 3.1 Members may decide to leave the fee levels as they are and not increase the fees to cover the full cost of delivering this function. This would mean there would be a shortfall in income against the budget set for the function. The shortfall would have to be covered from other areas of income within the Licensing Team.
- 3.2 Members may approve the fees as set at in Appendix A.
- 3.3 Members may require a fee higher than the cost of delivering the service. However, the fee is statutorily required to be reasonable and case law indicates that compliance with the EU Services Directive and Regulations requires that only the cost of administering the application and monitoring compliance be included in the fee. If the Council were to exceed this without justification it may be subject to challenge.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 To approve the fees set out in Appendix to ensure that the fee income reflects the cost of providing the service.

5. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 5.1 The fees will be charged from 1st April 2016 with respect to new applications, and existing premises will be sent invoices prior to the date the annual fee for the premises is due. They will be published on our website.

6. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Impact on Corporate Priorities	No implications have been identified	[Head of Service or Manager]
Risk Management	No implications have been identified	[Head of Service or Manager]
Finance and other resources	It is necessary for the Council to deliver a balanced budget and cover the costs of providing this service.	[Section 151 Officer & Finance Team]
Staffing	No implications have been identified	[Head of Service]
Legal	Legal have not reviewed this report prior to publishing.	
Equality Impact Needs Assessment	No implications have been identified	[Policy & Information Manager]
Environmental/Sustainable Development	No implications have been identified	[Head of Service or Manager]
Community Safety	No implications have been identified	[Head of Service or Manager]
Human Rights Act	No implications have been identified	[Head of Service or Manager]
Procurement	No implications have been identified	[Head of Service & Section 151 Officer]

7. REPORT APPENDICES

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

- Appendix A: Maidstone Borough Council's Gambling Act 2005 – Fees

1 April 2016 – 31 March 2017

8. BACKGROUND PAPERS

<http://www.culture.gov.uk>

<http://www.gamblingcommission.gov.uk>

**MAIDSTONE BOROUGH COUNCIL'S
GAMBLING ACT 2005 - FEES
1 April 2016 – 31 March 2017**

Premises Type	New Application £			Annual Fee £		
Existing Casinos	n/a			n/a		
New Small Casino	7700	(8,000)	6715	4275	(5000)	3940
New Large Casino	8845	(10,000)	8120	6900	(10000)	7875
Bingo Club	2730	(3500)	2420	770	(1000)	790
Betting Premises (excluding Tracks)	2750	(3000)	2420	555	(600)	475
Tracks	1675	(2500)	1880	770	(1000)	790
Family Entertainment Centres	1675	(2000)	1880	630	(750)	590
Adult Gaming Centre	1675	(2000)	1880	770	(750)	790
Temporary Use Notice	220	(500)	375	N/A		

	Application to Vary £	Application to Transfer £	Application for Re-Instatement £	Application for Provisional Statement £	Licence Application (provisional Statement holders) £	Copy Licence £	Notification of Change £
Existing Casinos	n/a	n/a	n/a	n/a	n/a	n/a	n/a
New Small Casino	3760 (4000) 2520	1620 (1800) 1660	1620 (1800) 1420	7760 (8000) 6715	2770 (3000) 2335	12 (25) 21	28 (50) 42
New Large Casino	4210 (5000) 3425	2060 (2150) 1935	2060 (2150) 2105	8870 (10000) 8015	4065 (5000) 4045	12 (25) 21	28 (50) 42
Bingo Club	1615 (1750) 1680	1200 (1200) 1045	400 (1200) 1045	2225 (3500) 2425	1200 (1200) 960	12 (25) 21	28 (50) 42
Betting Premises (excluding tracks)	1500 (1500) 1440	1200 (1200) 1045	400 (1200) 1045	1660 (3000) 2425	1200 (1200) 960	12 (25) 21	28 (50) 42
Tracks	1250 (1250) 1250	950 (950) 945	380 (950) 945	1900 (2500) 1880	950 (950) 945	12 (25) 21	28 (50) 42
Family Entertainment Centres	1000 (1000) 925	950 (950) 945	370 (950) 945	1675 (2000) 1880	950 (950) 855	12 (25) 21	28 (50) 42
Adult Gaming Centre	1000 (1000) 925	1200 (1200) 1045	370 (950) 1045	1620 (2000) 1880	1200 (1200) 960	12 (25) 21	28 (50) 42

**MAIDSTONE BOROUGH COUNCIL'S
GAMBLING ACT 2005 - FEES
1 April 2016 – 31 March 2017**

Temporary Use Notice	n/a	n/a	n/a	n/a	n/a	12 (25) <i>11</i>	28 (50) <i>27</i>
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The proposed fees as shown in **bold type** in the table above.

For ease of reference the maximum fees identified by DCMS that could be charged are shown in brackets and the previous year's fees are in *italics*.