

LICENSING COMMITTEE AGENDA



Wednesday 23rd April 2014

at 10.00am

in Committee Room B,
Civic Centre, Hartlepool

MEMBERS: LICENSING COMMITTEE

Councillors Ainslie, Beck, Cook, Dawkins, Fleet, Gibbon, Griffin, Hall, Jackson, Martin-Wells, Morris and Tempest

1. **APOLOGIES FOR ABSENCE**

2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**

3. **MINUTES**

3.1 To approve the minutes of the meeting held on 16th October 2013

4. **ITEMS REQUIRING DECISION**

4.1 Application for a Street Trading Consent: Clarence Road (site of the former service station) – *Director of Public Health*

4.2 Hackney Carriage Tariffs – *Director of Public Health*

4.3 Licensing Act 2003 – Locally Set Fees – *Director of Public Health*

5. **ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT**



LICENSING COMMITTEE

MINUTES AND DECISION RECORD

16th October 2013

The meeting commenced at 10.00am in the Civic Centre, Hartlepool

Present:

Councillor: Ray Martin-Wells (In the Chair)

Councillors: Jim Ainslie, Paul Beck, Rob Cook, Keith Dawkins, Mary Fleet, Steve Gibbon, Sheila Griffin, Ged Hall, George Morris and Sylvia Tempest

Officers: Sylvia Pinkney, Public Protection Manager
Ian Harrison, Principal Trading Standards and Licensing Officer
Tony MacNab, Solicitor
Jo Stubbs, Democratic Services Officer

9. Apologies for Absence

Apologies were submitted by Councillor Peter Jackson.

10. Declarations of interest by Members

None

11. Confirmation of the minutes of the meeting held on 17th July 2013

The minutes of the meeting were confirmed.

The Principal Trading Standards and Licensing Officer updated members on the Committee's refusal to grant the application for a dog breeding licence at Sandgate Industrial Estate. Planning Committee had also refused a planning application for the premises. A subsequent visit of the premises had revealed that the dogs had been removed from the premises. Information relating to their current whereabouts was unavailable. Members queried why the RSPCA had not kept a more vigilant eye on the premises but the Principal Trading Standards and Licensing Officer advised that while they had considered the premises unsuitable for breeding purposes the RSPCA felt that the animals themselves were well cared for and in a reasonable condition. The dogs had previously been checked for chips but nothing untoward had been found.

12. Scrap Metal Dealers Act 2013 *(Director of Public Health)*

The Public Protection Manager updated Members on the implementation of the Scrap Metal Dealers Act 2013. Among the changes to be introduced were a requirement for scrap metal dealers to be licensed by the local authority and a prohibition of cash sales of scrap metal. Licences were available for both sites and collectors on a 3 year basis, with the fees set by the Regeneration Services Committee. Currently registered operatives had until 15th October to apply for a licence, those not registered had to apply by 1st October. Details were given within the report of information considered relevant when considering whether an applicant is a suitable person to hold a licence. Objections to applications or variations to a licence would require consideration by a Licensing Sub-Committee along with decisions to revoke a licence or impose conditions. An appendix gave information on delegations to Sub-Committee and Officers.

The Principal Trading Standards and Licensing Officer advised that of the 97 operatives registered with the local authority and licensed with the Environment Agency as operating in Hartlepool only 26 applications had been received. Licences had to be in place by 31st December 2013. There was Members criticised the decision to introduce 2 separate licences as most operatives would be covered by both. The Principal Trading Standards and Licensing Officer agreed with this assessment saying it was leading to uncertainty among traders as to which licence they should apply for. Local authorities had differing interpretations of the legislation which was adding to the confusion and may be a reason for the lack of applications. Members questioned the proposed fees and what the requirements were to apply for a site licence. The Principal Trading Standards and Licensing Officer advised that under legislation local authorities were not allowed to make any profit from the issuing of licences. The charges may seem low but these would cover the processing for 3 years and were in line with the rest of the North-East. Police would deal with enforcement. Members asked whether charges could be collected on a yearly basis in order to ease the financial burden on applicants but the Principal Trading Standards and Licensing Officer indicated that licences would still be valid for 3 years meaning operatives could disappear after only paying fees for 1 year. There were no particular requirements for a site licence and technically this sort of licence might be preferable as it meant dealers could operate across local borders. Fees would be reviewed in April 2014 following similar concerns being expressed by Regeneration Services Committee.

Members questioned the prohibition of cash sales. The principal Trading Standards and Licensing Officer confirmed that sales must be made via cheque or bank transfer. Additionally the collector would have to retain a copy of the identity of the person selling them the scrap such as a passport or drivers licence and he questioned how many people would be happy to do this. There would no longer be a provision to leave goods in a garden for collection. Members felt it was unlikely that police would have the

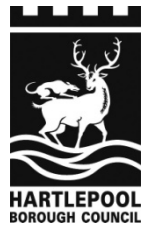
resources to investigate breaches of the Act and described it as a waste of time, money and effort. The Chair asked that the next reminder letter state very clearly that the details of unlicensed traders would be passed to the police after the end of the year as per instructions from this committee. Members also suggested a press release might be required.

Decision

That the report be noted and the delegation of functions and responsibilities as detailed in the appendix to the report be approved.

The meeting concluded at 10.35am.

CHAIR



Report of: Director of Public Health

Subject: Application for a Street Trading consent: Clarence Road (site of former service station)

1. PURPOSE OF REPORT

1.1 To consider an application for a Street Trading Consent to operate a mobile food business on the former service station site on Clarence Road.

2. BACKGROUND

2.1 On 2nd March 2005 it was resolved that parts of the Local Government (Miscellaneous Provisions) Act 1982 be adopted to have the effect of requiring permissions to be obtained for street trading in Hartlepool.

2.2 Anyone wishing to trade from any street in Hartlepool, except a prohibited street, is required to obtain from the Council a Street Trading Licence or a Street Trading Consent by submitting a formal application to the Council.

2.3 Street Trading can take one of two forms - 'mobile trading' where a trader moves from location to location at regular intervals (such as an ice cream van) or 'fixed site' trading where the trader chooses to trade from just one location for a prolonged period of time.

2.4 For fixed site applications, such as this one, a number of Council departments and Cleveland Police are consulted to ensure that trading will not pose any risks to public safety, contribute towards an increase in crime and disorder or in any other way cause concern. Consultations do not normally extend to other traders in the vicinity but permission will not normally be granted to any fixed site trader who proposes to sell goods of a similar nature to those being offered by other traders/businesses (including retail premises) already in the area.

2.5 Consideration may however be given to multiple traders in popular areas where the number of potential customers is high – this ensures that customers can receive a prompt level of service and drives up standards through competition.

- 2.6 On Saturday the 25th January 2014 a burger van was observed by a Council licensing officer trading on Clarence Road without a valid street trading consent. The operator of the van, Mr Toogood, received a warning from the officer and was advised to submit a formal application before carrying on any further street trading in the town.
- 2.7 On 6th March Mr Toogood applied for a consent to operate a burger van on an area of private land on Clarence Road, close to the football ground, on two match days – 29th April and 3rd May 2014. A map of the area is attached as **Appendix 1**.
- 2.8 As part of the standard procedures for dealing with such applications, a number of agencies and Council departments were consulted. In addition, due to their close proximity to the proposed site, and that the times of proposed trading coincide with Hartlepool United match days, Hartlepool United Football Club (HUFC) was also consulted.
- 2.9 Whilst no objections have been received from relevant authorities, HUFC has formally objected to the application on the grounds that it would have a significant detrimental financial impact on the club. A copy of the objection is attached as **Appendix 2**.

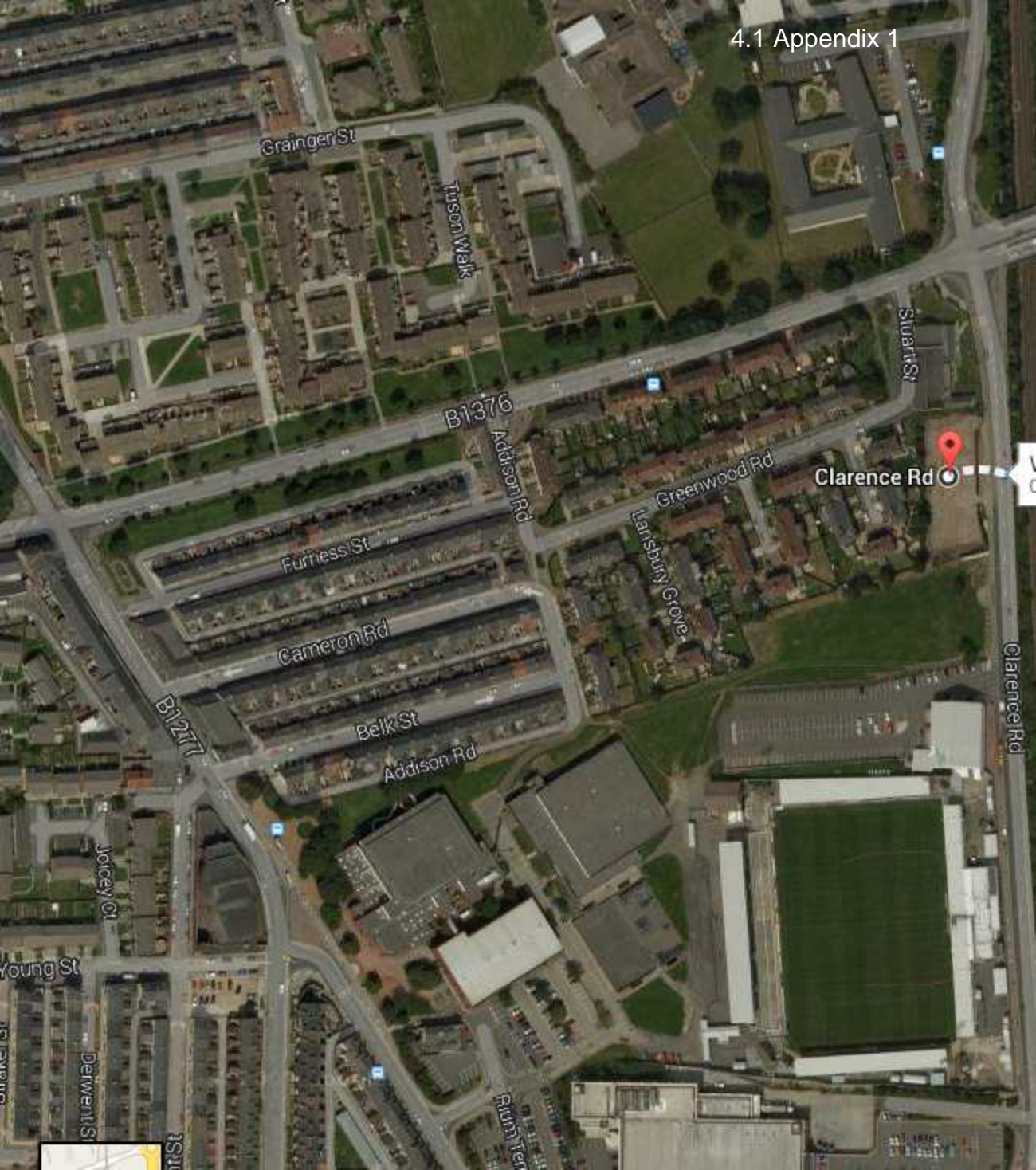
3. ISSUES

- 3.1 A consideration when determining whether a street trading application should be granted is whether the granting of the application would have a detrimental impact on others traders already trading in the area.
- 3.2 This is not intended to create a monopoly for an existing trader but rather to ensure that the viability of existing businesses is not undermined by the introduction of further traders into an area that does not have the passing trade to support them.
- 3.3 The proposed site is on privately owned land, believed to have formerly been a petrol filling station, and which is currently used by the landowner for car parking purposes on match days. As is required, the land owner has provided written permission for the proposed use of the site.
- 3.4 It is for the Licensing Committee to determine whether it is appropriate for Mr Toogood's application to be approved taking into consideration the objections of Hartlepool United Football Club who sell the same goods as the applicant (i.e. burgers, hot drinks, etc) from a site close to his proposed trading location.
- 3.5 Should a decision be made to refuse the application the Local Government (Miscellaneous Provisions) Act 1982 requires the Council to consider whether it is appropriate to refund the whole or part of the fee paid for the Consent - £130 (£65 for each of the proposed days).

- 3.6 Mr Toogood has no statutory right of appeal against any decision to refuse a Street Trading Consent.

4. RECOMMENDATIONS

- 4.1 That Members consider the comments of Mr Toogood and Hartlepool United Football Club, the matters detailed in the report and any other evidence presented and determine whether a Street Trading Consent should be granted.



Grainger St

Tusson Walk

B1376

Richardson Rd

Greenwood Rd

Stuart St

Clarence Rd

Furness St

Cameron Rd

Lansbury Grove

Belk St

Addison Rd

B1277

Joyce Ct

Young St

Delwent St

Runt Rd

Clarence Rd

Dear Ian

Many thanks for informing us of the request via your email today re the siting of a Burger Van on land in Clarence Road at our last 3 home fixtures. You asked for comments re effect on HUFC business etc... I can confirm that the van will have an effect on our Matchday Income as we have experienced this from other traders over the past few years. HUFC have had to take various courses of action to stop them .

The Football Club loses around 1 million per year, fully supported by IOR funding and plays a minimum of only 23 League games at Victoria Park per season (9 months) . These games are income generating to the Club and anyone who decides to take our custom away on these specific days is going to have an effect on our business. There is no doubt that they will undercut HUFC prices.

We have to pay council tax, land rent and many other fees for licensing, overheads , catering staff , stock and have to follow strict Health and Safety requirements for a large match day operation . etc.. .and yet we find that some outside caterer can decide to come to vicinity of Victoria Park and entice away catering business from the Club .

We therefore request that this trader is not given permission to event 'test' the three proposed dates because as we have already stated, this will have an effect on HUFC and once tested the trader will argue to remain and HBC will no doubt find it difficult to refuse a further 12 months application for season 2104-15 .

It is in HBC's interest to help stop income bleeding from HUFC and the Clubs owners IOR Ltd will expect such HBC support on such matters .

We look forward to your reply but should you wish further clarification or seek to meet to discuss this issue in more detail please do not hesitate to contact me.

Best Regards
For and on behalf of
Hartlepool United FC

Russ Green
Chief Executive



Report of: Director of Public Health

Subject: HACKNEY CARRIAGE TARIFFS

1. PURPOSE OF REPORT

1.1 To consider a request from the hackney carriage trade for an increase in the hackney carriage tariffs.

2. BACKGROUND

2.1 By virtue of the Town and Police Clauses Act 1847 licensing authorities are responsible for the setting of hackney carriage tariffs that may be charged in its area.

2.2 At your meeting held on 11th December 2002, it was agreed that there would be an annual review of these tariffs.

2.3 At the Annual General Meeting for licensed hackney carriage owners, held in February 2014, a proposal was put forward for an increase of 30p on the 'flag fall' for all hackney carriages.

2.4 The 'flag fall' is the initial price charged for the hiring of a hackney carriage vehicle, including the travel of a short initial distance, onto which is then added an additional cost based on the remaining distance travelled.

2.5 The current 'flag fall' is £2.20 and it is proposed that this be increased to £2.50.

2.6 If approved and implemented, the proposal would result in an increase of 30p in the price of every hackney carriage journey, irrespective of the distance travelled.

2.7 The proposed new tariff rates are attached as **Appendix 1**.

2.8 The proposal was circulated to all hackney carriage owners for consideration and one response was received which was in favour of the proposal. No written objections were received from members of the trade but there was a

minority of taxi owners at the Annual General Meeting who voiced their concern.

- 2.9 The flag fall was increased from £2:00 to £2.20 last year but, prior to that, tariffs had not increased in Hartlepool since 2008.
- 2.10 According to the taxi trade magazine Private Hire Monthly Hartlepool's hackney carriage tariffs (for a two mile journey) are the third cheapest in the country. An increase of 30p on every journey, would keep Hartlepool in that position.
- 2.11 In addition to the requested increase in the flag fall, taxi owners have also requested an increase in the 'soiling charge' from £20 to £35.
- 2.12 The soiling charge is the maximum cost that a taxi driver can require a passenger to pay to compensate him/her for the cost of cleaning their vehicle due to the actions (deliberate or accidental) of that passenger.
- 2.13 Typically a soiling charge would be incurred if the passenger was sick or spilled food in the vehicle but there are of course other scenarios that could lead to a driver having to have their vehicle cleaned prior to it being re-hired. In some circumstances a vehicle may be off the road for many hours if a thorough clean was required and it needs to dry out.

3. ISSUES FOR CONSIDERATION

- 3.1 Licensing authorities are responsible for the setting of hackney carriage tariffs.
- 3.2 A proposal for an increase in Hartlepool's tariff has been received and, following consultation with hackney carriage owners, one response was received that was in favour of the proposal and there were no negative comments.
- 3.3 If adopted the proposal would result in an increase of 30p for all hackney carriage journeys – irrespective of the distance of that journey.
- 3.4 Licensing Committee approved an increase in the flag fall from £2.00 to £2.20 last year and approval of this proposal would mean that taxi journeys would be 50p more expensive than they were prior to last year's increase in May 2013.
- 3.5 Should Members approve a tariff increase a Public Notice will be placed in the Hartlepool Mail to inform the general public. Should any objections be received within 14 days of the Notice being published, the matter will be referred back to Licensing Committee before any increase is implemented. Assuming there are no public objections, any increase approved by Members will not therefore take effect for approximately 3 weeks.

- 3.6 Members should note that hackney carriage drivers are prevented by law from charging more than the maximum approved tariff. Any increase in their operating costs must therefore be absorbed by them until any tariff increase is approved by the Council.
- 3.7 According to the taxi trade magazine *Private Hire Monthly* Hartlepool's Hackney Carriage tariffs (for a two mile journey) are the third cheapest in the country.
- 3.8 With regard to the proposed increase in the soiling charge, other Tees Valley authorities currently have a fee of £30 but one authority is currently considering an increase to £40.
- 3.9 Any increase in tariffs must reflect a balance between allowing licensed drivers to generate a reasonable income whilst representing value for money for the travelling public.
- 3.10 There is no prohibition on a taxi driver charging less than the approved tariff and it would therefore be possible for a driver to charge a lower rate if they believed the proposed tariff increase was too high.
- 3.11 The proposed increase in tariffs applies only to hackney carriages as licensing authorities have no power to set fares for private hire vehicles.

4. EQUALITY AND DIVERSITY CONSIDERATIONS

- 4.1 There are no equality or diversity implications.

5. SECTION 17

- 5.1 The Crime and Disorder Act 1998 requires Local Authorities to consider the impact of everything they do in relation to crime and disorder in all their activities. This duty is what is referred to as 'Section 17'.
- 5.2 It is not anticipated that any increase to the hackney carriage tariff would impact on the Council's section 17 responsibilities.

6. RECOMMENDATIONS

- 6.1 That Licensing Committee approves the proposed increase in hackney carriage tariffs as detailed in Appendix 1.

7. APPENDICES AVAILABLE ON REQUEST, IN THE MEMBERS LIBRARY AND ON-LINE

7.1 Appendix 1 – Proposed new hackney carriage tariffs

8. BACKGROUND PAPERS

8.1 There are no background papers to accompany this report.

9. CONTACT OFFICER

Louise Wallace
Director of Public Health
Hartlepool Borough Council
Tel: 01429 284030
Louise.wallace@hartlepool.gov.uk

HACKNEY CARRIAGE FARES
Local Government (Miscellaneous Provisions) Act 1976 Section 65

APPENDIX 1

FARES FOR DISTANCE

MILEAGE

- (1) For hirings begun between 9 am and 5 pm on any day other than Sundays and those shown at (2), (3) and [4]: -
- | | |
|---|------|
| If the distance does not exceed 210 yards or 192 metres | 250p |
| If the distance exceeds 210 yards or 192 metres:- | |
| For the first 210 yards or 192 metres | 250p |
| For each subsequent 210 yards or 192 metres or uncompleted part thereof | 10p |
- (2) For all hirings begun between 6.30 am and 11.30 pm on Sundays, between 6.30 am and 9 am and 5 pm and 11.30 pm on any day other than those shown at (3) or [4]: -
- | | |
|---|------|
| If the distance does not exceed 380 yards or 347.5 metres | 250p |
| If the distance exceeds 380 yards or 347.5 metres:- | |
| For the first 380 yards or 347.5 metres | 250p |
| For each subsequent 140 yards or 128 metres or uncompleted part thereof | 10p |
- [3] For all hirings begun between 11.30 pm and 6.30 am and all hirings on any Bank Holiday or Public Holiday and all hirings on 24 and 31 December other than those shown at (4): -
- | | |
|---|------|
| If the distance does not exceed 200 yards or 182.9 metres | 250p |
| If the distance exceeds 200 yards or 182.9 metres:- | |
| For the first 200 yards or 182.9 metres | 250p |
| For each subsequent 120 yards or 109.7 metres or uncompleted part thereof | 10p |
- [4] For all hirings begun between 7pm on 24th December and 0630 am on 27th December and between 7 pm on 31st December and 0630 am on 2nd January: -
- | | |
|---|------|
| If the distance does not exceed 200 yards or 182.9 metres | 400p |
| If the distance exceeds 200 yards or 182.9 metres:- | |
| For the first 200 yards or 182.9 metres | 400p |
| For each subsequent 120 yards or 109.7 metres or uncompleted part thereof | 10p |

WAITING TIME

- (a) For all hirings shown at (1) and (2) under MILEAGE.
 For each period of one minute or uncompleted part thereof
 10p
- (b) For all hirings shown at (3) and [4] under MILEAGE
 For each period of up to 40 seconds or uncompleted part thereof
 10p

FARES FOR TIME - Provided that when a Hackney Carriage is hired by time, such fares shall be agreed with the hirer at the commencement of the hire.

Additional Charge - An additional charge of up to £1.50 may be made where purpose built wheelchair accessible vehicles carry five or more passengers at any one time.

SOILING CHARGE - £35.00



Report of: Director of Public Health

Subject: LICENSING ACT 2003 – LOCALLY SET FEES

1. PURPOSE OF REPORT

1.1 To update the Licensing Committee on government proposals to move towards locally set licence fees for the Licensing Act 2003.

2. BACKGROUND

2.1 The Licensing Act 2003 prescribes the fee that a licensing authority must charge for various licensing functions regulated by the Act. These fees have not changed since the Act was implemented in 2005.

2.2 In 2013 the government signaled its intention to review Licensing Act fees and has been carrying out a consultation exercise to determine the feasibility of replacing a national fee structure with locally set fees.

2.3 By virtue of the Provision of Services Regulations 2009 (and case law determined through the courts) a licensing authority may only levy a licence fee that covers the costs directly associated with the administration and enforcement of a licensing system and, under no circumstances, can a profit be made.

2.4 Recent case law has also clarified that licensing fees cannot be used to enforce against unlicensed traders – such costs having to come from general council funding.

2.5 At present, some licence fees, such as the fee for new premises licence applications, variations and annual fees are based on the rateable value of the premises. Others, such as Temporary Event Notices, changes to the Designated Premises Supervisor and transfer of licence holder are fixed fees and apply at the same rate for all premises. Current licence fees (and the proposed new maximum fees) are attached as **Appendix 1**.

2.6 A personal licence, which now has an unlimited duration, costs just £37. There is no annual fee.

- 2.7 The government has published a short consultation on its proposals to replace the existing fee structure with locally set fees based on the actual costs incurred by licensing authorities – but all fees would be limited to a maximum ceiling set by the Government.
- 2.8 It is still uncertain as to exactly how fees will be set for different types of licensed premises. For example, should all premises pay the same fee, irrespective of size? Should on-licensed premises pay a greater or lesser fee than off-licensed premises? Should alcohol licensed premises pay a higher fee than premises that do not sell alcohol?
- 2.9 These issues are not straightforward and it is likely that whatever the government finally decides will not be universally welcomed.

3. ISSUES FOR CONSIDERATION

- 3.1 The proposed introduction of locally set Licensing Act fees will allow licensing authorities to generate sufficient income to cover their direct licensing costs.
- 3.2 Initial indications are that the ceiling set by the Government will be at a level that would allow Hartlepool Borough Council to generate sufficient income to cover its licensing costs.
- 3.3 Licensing authorities cannot set licence fees that generate a greater income than the licensing service costs i.e. it cannot make a profit from licensing.
- 3.4 Consultation ended 10th April 2014 and it is anticipated that whatever proposals the government chooses to adopt will be implemented no earlier than October 2014.
- 3.5 The local licensees trade body, Hartlepool Licensees Association, has been advised of the consultation exercise and, perhaps not surprisingly, were not supportive of any potential increase in fees.
- 3.6 A further report will be brought to this Committee as soon as the government publishes its findings and conclusions.

4. EQUALITY AND DIVERSITY CONSIDERATIONS

- 4.1 There are no equality or diversity implications.

5. SECTION 17

- 5.1 The Crime and Disorder Act 1998 requires Local Authorities to consider the impact of everything they do in relation to crime and disorder in all their

activities. This duty is what is referred to as ‘Section 17’.

- 5.2 As the proposal is to change the manner in which licensing fees are calculated, rather than permit greater income generation, it is not anticipated that any change to Licensing Act fees would impact on the Council’s section 17 responsibilities.

6. RECOMMENDATIONS

- 6.1 That Licensing Committee notes the contents of this report.

7. APPENDICES AVAILABLE ON REQUEST, IN THE MEMBERS LIBRARY AND ON-LINE

- 7.1 Appendix 1 – Current Licensing Act fees and proposed new statutory maximum fees

8. BACKGROUND PAPERS

- 8.1 There are no background papers to accompany this report.

9. CONTACT OFFICER

Louise Wallace
Director of Public Health
Hartlepool Borough Council
Tel: 01429 284030
Louise.wallace@hartlepool.gov.uk

Current Licensing Act Fees

Rateable Value	Up to £4300	£4300 to £33000	£33001 to £87000	£87001 to £125000	£125001 and above	Proposed New Maximum
Application for, or variation of, premises licence	£100	£190	£315	£450* ₁	£635* ₂	£2400
Annual fee	£70	£180	£295	£320* ₁	£350* ₂	£740
* ₁ Fee is doubled if premises are on-licensed exclusively or primarily for the sale of alcohol						
* ₂ Fee is trebled if premises are on-licensed exclusively or primarily for the sale of alcohol						

Examples of other fees (not linked to rateable value)

	Current Fee (£)	Proposed new maximum fee (£)
Grant of a personal licence	37	114
Variation of DPS	23	105
Transfer of licence	23	65
Change of Name and/or address	10.50	46
Minor variation of premises licence	89	244
Replace lost or stolen personal licence	10.50	59
Temporary Event Notice	21	100