

Public Document Pack

Mid Devon District Council

Regulatory Committee

**Friday, 8 December 2017 at 10.00 am
Exe Room Phoenix House, Tiverton**

Those attending are advised that this meeting will be recorded

Membership

Cllr K Busch
Cllr R J Chesterton
Cllr Mrs F J Colthorpe
Cllr D R Coren
Cllr Mrs G Doe
Cllr C J Eginton
Cllr S G Flaws
Cllr P H D Hare-Scott
Cllr T G Hughes
Cllr D J Knowles
Cllr L D Taylor
Cllr R Wright

A G E N D A

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

1 ELECTION OF CHAIRMAN

To elect a Chairman of the Regulatory Committee for the Municipal Year 2017/18.

2 ELECTION OF VICE CHAIRMAN

To elect a Vice Chairman of the Regulatory Committee for the Municipal Year 2017/18.

3 APOLOGIES AND SUBSTITUTE MEMBERS

To receive any apologies for absence and notices of appointment of Substitute Members (if any).

4 PUBLIC QUESTION TIME

To receive any questions relating to items on the Agenda from members of the public and replies thereto.

5 **MINUTES** *(Pages 5 - 8)*

To approve the minutes of the last meeting (copy attached).

6 **ENFORCEMENT UPDATE**

To receive a verbal update from the Lead Licencing Officer.

7 **FEES FOR ANIMAL RELATED APPLICATIONS AND CHANGES TO THE LICENSING PROCESS** *(Pages 9 - 20)*

To receive a report regarding fees for animal related applications and changes to the licensing process.

8 **FEES FOR 'BEAUTY' REGISTRATIONS** *(Pages 21 - 28)*

To receive a report regarding fees for 'beauty' registrations.

Stephen Walford

Chief Executive

Thursday, 30 November 2017

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

If you would like a copy of the Agenda in another format (for example in large print) please contact Julia Stuckey on:

Tel: 01884 234209

E-Mail: jstuckey@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **REGULATORY COMMITTEE** held on 21 March 2017 at 10.55 am

Present

Councillors

D R Coren (Chairman)
R J Chesterton, Mrs F J Colthorpe,
Mrs G Doe, C J Eginton, P H D Hare-Scott,
D J Knowles and L D Taylor

Apologies

Councillor(s)

K Busch, T G Hughes, J L Smith and R Wright

Also Present

Officer(s):

Simon Newcombe (Public Health and Professional Services Manager), Thomas Keating (Lead Licensing Officer), Philip Langdon (Solicitor) and Julia Stuckey (Member Services Officer)

17 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllrs T G Hughes, J L Smith and R Wright.

18 **PUBLIC QUESTION TIME**

There were no members of the public in attendance.

19 **MINUTES**

The Minutes of the last meeting were approved as a true record and signed by the Chairman.

20 **PRE-APPLICATION ADVICE AND CHARGING FOR LICENSING APPLICATIONS**

The Committee had before it a report * from the Public Health and Professional Services Manager which set out proposals for the introduction of a discretionary chargeable service for the provision of pre-application advice for licence applications.

It was **AGREED** that minor changes to the application form which included examples being provided at 5, changes to wording at 6 and simplification of the sentence at 8 be made. Officers would liaise with the legal service regarding this; and that the recommendation within the report should refer to 'this committee' and not 'these committees'.

It was **RECOMMENDED** that Council:

- a) Approve the introduction of the discretionary chargeable service for the provision of pre-application advice for relevant licensing applications as set out in Section 2 and Annexe 1 of the report.

and

- b) That the Scheme of Delegation for the Regulatory Committee be updated within the Constitution to include the Localism Act 2011 to enable consequential reviews and updates to scheme charges to be made by this committee.

(Proposed by the Chairman)

Note: Report * previously circulated and attached to Minutes.

21 **HACKNEY CARRIAGE AND PRIVATE HIRE FEES**

The Committee had before it a report * from the Lead Licensing Officer recommending the adoption of licence fees.

The officer outlined the contents of the report, explaining that Mid Devon District Council had statutory responsibility for the administration and enforcement of a wide range of licences, registrations and permits. Many of these schemes allowed the Council to charge a fee, payable by an applicant for a licence, in order to cover the costs (or a proportion of the costs) of the administration of those licence types. In some cases, costs could include other aspects of providing the regulatory scheme, such as monitoring compliance.

The officer explained that the general principle in setting these fees was to ensure full cost recovery, or as close to this as possible. A number of legal cases over the years had confirmed that licensing fees could not be used to generate a profit for Councils, and that fees should be reviewed regularly to ensure they remained accurate. Additionally, it had become increasingly clear that authorities must be able to demonstrate how fees have been calculated.

Some application fees were set nationally (i.e. fees under the Licensing Act) so the local authority had no discretion on what it charged. Others were set by the Council themselves and these included fees for:

- Hackney carriage and private hire licences
- Animal related licences
- Scrap metal licences
- Acupuncture, tattooing, ear-piercing and electrolysis registrations.

The officer informed Members that a fee spreadsheet had been introduced on the basis that it would provide greater detail on the cost of each individual application and the associated processes. It would also make it simpler to review and amend specific fees in the future.

The officer described the spreadsheet to Members, explaining that it could be used to clarify charges if a request for information was received. He explained that the spreadsheet contained:

- An introductory tab that provided a brief overview of the relevant legislation along with an explanation of how the spreadsheet itself worked.

- A 'base' cost tab which contained a number of details, including staff hourly rates (with certain on-costs) and the cost of specialist materials / software. It also included the number of applications received in previous years which provided an average for the number of applications to expect in the future.
- A 'fee' tab which provided an overview of the total final cost of each application, adding together the base cost, administration cost, monitoring compliance cost (if applicable) and the specific application process cost.
- An 'administration' tab which outlined the general time and costs allocated year on year to the maintenance of the regime (not specific to the processing of an individual application). This included things like general administration, updating web pages, staff training and policy and procedural amendments / developments.
- A 'monitoring compliance' tab that outlined the time spent dealing with complaints, pro-active monitoring and joint operations with partner agencies. These costs were applied to vehicle applications only.
- Separate individual tabs for each application which showed the approximate average time it took to administer, from initial enquiry to the issuing of a licence.

Discussion took place regarding:

- The importance of being transparent regarding how fees were set in case of challenge;
- Some processes, such as checking MOT information on line had become cheaper but other areas, such as additional hearings for new drivers, had become more expensive;
- The aim to be cost neutral over the year and the small deficit from the previous year;
- Comparison with fees charged by other authorities.

It was **RESOLVED** that

- a) The fees set out in the report be approved and be introduced as soon as possible, in compliance with the requirement to advertise and consider objections.
- b) If there were objections to the fees when they were advertised then delegated authority be given to the Public Health and Professional Services Manager, in conjunction with the Chair of the Regulatory Committee, to consider the objection(s) and set a further date, not later than two months after the first specified date on which the variation will come into force, with or without modification.

(Proposed by the Chairman)

Note: - Report * previously circulated and attached to the Minutes.

22 ANIMAL LICENSING UPDATE

The Lead Licensing Officer informed the Committee that following consultation in 2015 he had recently received information regarding Animal Licensing.

The officer explained that there had previously been a number of different licenses for animal activities but these were being amalgamated into an Animal Activity Licence. This did not include zoos or dangerous animals. These licences would last for three years, although a shorter licence could be issued if there were concerns. Licences would not be transferable so a new owner would have to apply for a licence in their own name.

The officer informed Members that fees would continue to be set at cost recovery. Conditions currently differed across the country so the aim was to standardise a set of model conditions that could be tailored if required.

Changes proposed included dog breeding and the number of litters that a breeder could sell in a year without licence and the age that puppies could be sold at.

It was suggested that a press release be issued, possibly by all Devon Authorities, to publicise these changes.

Discussion took place regarding:

- Pet shops would need to provide guidance on how to care for the animal;
- Fixed penalty notices could be issued as an option for enforcement;
- Dog walking did not require a licence but home boarding did;
- Breeders would have to display their licence number when advertising puppies for sale;
- Some websites which had previously provided information to the authority regarding advertisers now looked to charge for this information.

The officer informed Members that he would provide a further update when more information became available.

23 ENFORCEMENT UPDATE

The Lead Licensing Officer informed Members that since November one licensee had been interviewed under caution and four hearings had taken place. Two of these had been for new driver applications where they had failed to declare items that had subsequently shown up on DBS forms and both were refused a licence. One was for a driver that was late providing documents, who had since shown improvement and one for a proprietor where there had been queries regarding the maintenance of vehicles, MOT issues and possibly using an unlicensed vehicle.

(The meeting ended at 11.40 am)

CHAIRMAN

REGULATORY COMMITTEE - 8 DECEMBER 2017

FEES FOR ANIMAL RELATED APPLICATIONS AND CHANGES TO THE LICENSING PROCESS

Cabinet Member(s): Colin Slade
Responsible Officer: Tom Keating, Lead Licensing Officer

Reason for Report:

- 1) To recommend the adoption of application fees set out in this report.
- 2) To amend and clarify the licensing process for dog boarding establishments.

RECOMMENDATION:

- 1) That the Regulatory Committee approves the fees set out in this report and they be introduced from 1 January 2018.
- 2) That the Regulatory Committee note that future applications for dog home boarding licences may be referred to a Sub-Committee for a decision when an officer believes that the total number of dogs onsite is unreasonable, unsuitable and/or inappropriate.
- 3) That the Regulatory Committee delegate authority to Licensing officers to decide whether or not a dog home boarding premises requires a vet inspection prior to the grant of a licence. This discretion would only apply when the application is to board 3 dogs or less from the same household and there is no more than 1 resident dog.

Relationship to Corporate Plan: These fees link directly to the licensing function with the aim of ensuring the safety and wellbeing of our community.

Financial Implications: Setting fees at the appropriate level helps to ensure the Councils costs are recovered.

Legal Implications: Fees must be set lawfully. This means that they must be 'reasonable' and only seek to recover the cost to the specific licensing regime. Fees that are not lawful can be challenged.

Risk Assessment: In the event of a successful challenge to the fees, the Council could be liable for costs.

Equality Impact Assessment: There are no equality issues.

1.0 BACKGROUND

- 1.1 Mid Devon District Council has statutory responsibility for the administration and enforcement of a wide range of licences, registrations and permits. Many of these schemes allow the Council to charge a fee, payable by an applicant for a licence, in order to cover the costs (or a proportion of the costs) of the administration of those licence types. In some cases, costs can include other aspects of providing the regulatory scheme, such as monitoring compliance.
- 1.2 The general principle in setting these fees is to ensure cost recovery, or as close to this as possible. A number of legal cases over the years have confirmed that licensing fees may not be used to generate a profit for Councils, and that fees should be reviewed regularly to ensure they remain accurate. Additionally, it has become increasingly clear that local authorities must be able to demonstrate how fees have been calculated.
- 1.3 Although every effort can be made to predict future income and expenditure there are always variables that are difficult to foresee. Examples include complaints received that then need to be investigated and the work required to implement a new legislative requirement. Because of these potential 'unknowns' it is important that consideration is given to previous surpluses or deficits that have accrued. These can legitimately be carried forward and redistributed or recouped, as necessary.
- 1.4 Some application fees are set nationally (i.e. fees under the Licensing Act) therefore the local authority has no discretion on what it charges. Other fees are set by the Council themselves and this includes the fees for animal related applications.

2.0 THE LEGISLATION AND LICENSING PROCESS

- 2.1 The Council is responsible for licensing a number of animal related businesses. These include:
 - Boarding of dogs and cats
 - Dog Breeding
 - Pets Shops
 - Riding Establishments
 - Zoos
- 2.2 Additionally, the Council is also required to licence Dangerous Wild Animals. These licences are not usually related to businesses, but are for keepers of animals that appear on a prescribed list and are considered to be wild, dangerous or exotic.
- 2.3 The licensing regime is ultimately in place to ensure the welfare of the animals, along with the safety of those working or looking after the animals. There are separate pieces of legislation covering the above activities and each one allows the licensing authority to attach conditions to a licence. Model conditions have been adopted by

this Council for a number of these licences, but conditions can be (and are) tailored to suit specific premises and circumstances.

- 2.4 In accordance with legislative requirements, a veterinary surgeon inspects premises in relation to new applications for animals and those renewing licences for riding establishments, dangerous wild animals and zoos. Dog breeding premises require a visit from the vet on initial application but not necessarily on renewal.
- 2.5 In 2014, this Council decided to introduce a policy whereby a veterinary surgeon should inspect all new animal boarding establishments and pet shops. This was in recognition of the importance of animal welfare. With regards to the renewal of these licences, a vet inspection is not necessarily required but can take place if a licensing officer has concerns.
- 2.6 Where a visit from the vet is required, the applicant is recharged for their time. To be clear, the cost of the vet inspection is not included in the Councils application fee and is an additional charge to the applicant.

3.0 LICENSING FEES – FEE SPREADSHEET

- 3.1 The proposed new fees are set out in Annex 1, alongside a list of the current charges. A comparison of the proposed fees with some neighbouring local authorities is attached as Annex 2.
- 3.2 If Members of the Committee (or any interested party) wish to see or discuss the full cost matrix before the committee meeting, we ask that they contact the Licensing team.
- 3.3 The fees have been calculated using a similar cost spreadsheet to the one used for calculating other licensing fees, like those for Hackney Carriage and Private Hire applications. The spreadsheet sets out all of the relevant information and produces a final chargeable fee for each application. It also contains a number of tabs and pieces of information, the main points of which are highlighted below:
- An 'overview' tab which details the sections of the relevant legislation which provides the local authority to make a charge.
 - A 'fee' tab which provides an overview of the total final cost of each application, by adding together the cost of processing an application and the general administration cost that applies.
 - A 'comparison' tab which compares the proposed fees with those of some neighbouring local authorities.
 - An 'administration and monitoring' tab which outlines the general times and costs allocated year on year to the maintenance of the regime (not specific to an application as such). This includes things like general admin, fee work, web page

updates, staff development and policy and procedural amendments. This tab also contains a breakdown of the anticipated number of applications.

- Each individual application process then has its own tab which tracks the time of an average application, from initial enquiry to the issuing of a licence. This includes the inspection of the premises. Where possible these timings have been mirrored across similar applications to ensure consistency.

- 3.4 The fees spreadsheet now also includes a new process tab called 'additional activity'. It is important to clarify that this applies to boarding related applications only. These are for kennels, catteries, home boarding and day crèches. The licensing team have found that it is becoming more common for premises to want to provide more than one of these services i.e. full kennels providing a day crèche. This fee would therefore be added to the standard fee payable for either new applications or renewals.
- 3.5 Additionally, it is proposed to reduce the cost of new applications in certain circumstances where the licence would be restricted to the current calendar year (i.e. boarding establishments and pet shops). The legislation is restrictive in the sense that these licences can only run for the calendar year period so, for example, a licence granted in November would have to expire at the end of December, at which point the premises would need to renew the licence.
- 3.6 It is therefore proposed to reduce the application fee by £55.00 when the licence is issued from July or onwards in the year (i.e. any licence that has less than 6 months on it). This figure is justified in that it represents half of the annual costs that make up the 'administration and monitoring' total. There is no current requirement to reduce this fee, but the licensing team have dealt with a number of applications made in the latter part of the year and the current pricing structure does not reflect this. Additionally such a reduction may encourage those operating without a licence to apply immediately which helps to ensure compliance.
- 3.7 These animal fees were last reviewed in 2015 and at that point, the accounts showed that a deficit had been made for these licence types. Fees were then set at a level to try and ensure cost recovery going forward, the rationale being that it was the first time the cost matrix was used for setting these fees and previous costs could not necessarily be specifically determined.
- 3.8 Looking at the costs of providing the licensing regime since this period, overall deficits are likely to have been made. The likely income and costs for 2016-17 are as follows:

Licence type	Income	Cost	Totals
Animal Boarding	£4,309	£5,195	-£886
Dangerous Wild Animal	£0	£0	£0
Dog Breeding	£221	£194	£27
Pet Shop	£845	£1,046	-£201
Riding Establishment	£689	£776	-£87
Zoo	£0	£0	£0
Totals	£6,064	£7,211	-£1,147

- 3.9 It is clear that the Licensing team are now spending more time with animal related licences which implies, with all things being equal, a fee increase is required. This is evidenced by the increasing number of animal related applications received year on year. In 2014/15 it numbered 24, in 15/16 it was 30 and in 16/17 it was 36.
- 3.10 The proposed fees do not include a recharge for the potential deficits outlined above. In light of the price increases already established, the majority of which are increases of 32 - 34%, it is suggested that this situation be reviewed again next year. Although the number of licence holders is increasing, the total number is still relatively small compared to other areas that the council licence (i.e. taxis). As a result, the impact of recouping any deficits on each individual business is significant. It is not intended to continually run deficits however and this point will be explored in more detail when the fees are next reviewed.
- 3.11 The issue of unlicensed premises is something the Licensing team are looking to address and the successful prosecution of an unlicensed dog breeder earlier this year emphasises this point. It is highly likely that further unlicensed premises need to be investigated and this is a crucial element of the licensing regime. It is important that both the public and those we licence have confidence in the Councils ability to enforce the legislation.
- 3.12 Additionally, another factor to be considered is that there are going to be changes to animal licensing in 2018. More information on this can be found here:
<https://www.gov.uk/government/consultations/animal-welfare-reviewing-animal-establishments-licensing-in-england>
- 3.13 One of the changes that we believe has the potential to cause significant work is in relation to dog breeding. At present, anyone that breeds dogs and sells puppies as a business requires a licence. However, anyone breeding 5 litters or more in a 12 month period is automatically assumed to be carrying on a business and therefore requires a licence. This 5 litter limit was meant to give true hobby breeders the ability to operate without a licence however, in the Licensing teams experience; it is often cited by people who in reality are not hobby breeders. The Government is now

proposing to change this number to 3 litters in a 12 month period and this could mean a lot more premises requiring a licence.

- 3.14 When the Licensing team have more information about this we will try to raise awareness in Mid Devon and when appropriate, try to educate people and encourage submissions of applications. However, where this approach is not effective, enforcement action will need to be taken.
- 3.15 To give an indication of the overall difference in income that would occur as a result of introducing the new fees we can compare projected income using the current fees against the proposed fees. We predict that we will receive 34 applications in the year, resulting in an income of £5,401 based on the current fees. The proposed fees would generate an income of £7,438, an additional £2,037.

4.0 MODEL CONDITIONS AND DOG BOARDING ESTABLISHMENTS

- 4.1 The Committee will remember that in November 2016 the Licensing team proposed consulting on new model conditions for dog boarding establishments (i.e. full kennels). This consultation was going to run in early 2017 however, following the Governments response to a review of all animal licensing (referenced in Paragraph 3.13) a decision was taken to delay this consultation until all of the Governments proposals are clear and confirmed. It is hoped that we will have information on this in early 2018.
- 4.2 The Governments 'next steps' document, published in February 2017 indicates a number of likely changes to animal licensing, all of which will require significant contact with the animal boarders we currently licence. One potential change may be the enshrining of model conditions into law and it therefore seems sensible to wait for the outcome of this before consulting current licence holders.
- 4.3 Additionally, in 2018 the Licensing team will work on a new animal licensing policy with the aim of having one unified document which contains all of the relevant information. It will also condense all legal requirements in recognition of the fact that it looks like the Government are planning on introducing one 'animal activity' licence. This would cover dog breeding, dog and cat boarding, pet shops and riding establishments. The proposed policy will include reference to new and/or updated model conditions for all animal related activities and a complete consultation will be carried out before the policy is brought to this committee for approval.
- 4.4 Although the latest model conditions have not yet been adopted for full dog kennels, the Sub-Committee should be aware that this does not prevent the Licensing team from applying its content to specific premises if there is a need to. If we do receive an application for a new kennels, Licensing Officers will have regard to these conditions.

5.0 UPDATES TO THE LICENSING PROCESS

Number of dogs for home boarders

- 5.1 The increasing popularity of home boarding for dogs has led to some people trying to push the boundaries of what it is designed to cover. Essentially, home boarding should be seen as a relatively low level activity where dogs are kept as they would be in a normal house, like a pet. Where the intention is to keep large numbers of dogs, the premises should be looking to have purpose built kennels and apply for a full boarding licence. This difference is reflected in the fees charged and the conditions applied to these two licences.
- 5.2 Each application must be considered on its individual merits and so it is very difficult to set one figure for the total number of dogs that can be boarded. Licensing Officers will consider issues like the supervision of dogs, available isolation facilities and ability to separate dogs if required.
- 5.3 With this in mind, it is suggested that if for any reason the licensing team believe that an applicant wishes to keep too many dogs then the application should be referred to a Sub-Committee. Importantly, the number of dogs is the combined total of dogs to be boarded and also the resident dogs.
- 5.4 This is considered important because it will allow the Sub-Committee to determine what level is right for home boarders in Mid Devon. It is not anticipated that many will actually need to be referred to a Sub-Committee, but Licensing Officers can at least flag this up with applicants who may then decide to re-evaluate their application. For Member's information, when issues like this are referred to a Sub-Committee, it will always be accompanied by a vet report, having taken into consideration the potential risks of boarding a higher number of dogs.

Vet inspections and home boarders

- 5.5 At the other end of the scale, some home boarding applications are considered to be particularly low risk. In certain circumstances the Licensing team would like to alter the current licensing process and have the ability to decide, at Licensing Officer level, whether or not an inspection by a vet is required. To be clear, this would be in very specific circumstances and this would be as follows:
- The number of dogs applied to board on a home boarding basis is no more than 3
 - The dogs being boarded are from the same household
 - The applicant has no more than 1 dog of their own
- 5.6 This proposal is based on -the Licensing teams experience and importantly, a vet inspection can still be required if there are any concerns. Officers have had applications from premises meeting these requirements and have found that the risks are relatively low. Additionally, it will hopefully help to encourage those

operating without a licence to apply as they would have previously been recharged for the vet inspection which could be an approximate cost of £100.00 to £200.00.

6.0 RECOMMENDATIONS AND TIMESCALE

- 6.1 It is recommended that the Regulatory Committee approves the fees set out in this report and that the fees be introduced from 1 January 2018. There is no statutory duty on the Council to consult on these fees.
- 6.2 It is recommended that the Regulatory Committee note that future applications for dog home boarding licences may be referred to a Sub-Committee for a decision when an Officer believes that the total number of dogs onsite is unreasonable, unsuitable and/or inappropriate.
- 6.3 It is recommended that the Regulatory Committee delegate authority to Licensing Officers to decide whether or not a dog home boarding premises requires a vet inspection prior to the grant of a licence. This discretion would only apply when the application is to board 3 dogs or less from the same household and there is no more than 1 resident dog.

ANNEX 1 – COMPARISON OF CURRENT AND PROPOSED FEES

Application Type	Current Cost	Proposed Cost	Difference
Animal Boarding* – New	£221.00	£292.00	+£71
Animal Boarding* - Renewal	£156.00	£210.00	+£54
Home Boarding - New	£156.00	£235.00	+£79
Home Boarding - Renewal	£118.00	£173.00	+£55
Additional Boarding activity	N/A	£29.00	+£29
Dangerous Wild Animal - New	£221.00	£292.00	+£71
Dangerous Wild Animal - Renewal	£156.00	£210.00	+£54
Dog Breeding - New	£221.00	£292.00	+£71
Dog Breeding - Renewal	£156.00	£210.00	+£54
Pet Shop - New	£221.00	£292.00	+£71
Pet Shop - Renewal	£156.00	£210.00	+£54
Riding Establishment - New	£221.00	£292.00	+£71
Riding Establishment - Renewal	£156.00	£210.00	+£54
Zoo - New	£392.00	£436.00	+£44
Zoo - Renewal	£338.00	£375.00	+£37

*The fee for 'Animal Boarding' applications also applies to dog day crèches

Additional information

- 1) For any application restricted to calendar year (i.e. Boarding est. and Pet shops), if applied for in July or later in that year, the fee will be reduced by £55.00
- 2) Where a vet inspection has taken place, the applicant will be recharged for this separately, at full cost

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ANNEX 2 - COMPARISON OF PROPOSED FEES WITH OTHER AUTHORITIES

Licence type	MDDC (proposed)	Taunton	West Devon	Teignbridge	East Devon
Boarding - New	£292.00	£332.00	Max fee £187.00	Max. fee £210	Max. fee of £180
Boarding - Renewal	£210.00	£216.00	Max fee £187.00	Max. fee £210	Max. fee of £180
Home Boarding - New	£235.00	£332.00	£120.00	£63.00	£80 (+£6 per add.)
Home Boarding - Renewal	£173.00	£316.00	£120.00	£63.00	£80 (+£6 per add.)
Breeding - New	£292.00	£332.00	£167.00	Max. fee £179	£100 (+£6 per add.)
Breeding - Renewal	£210.00	£316.00	£167.00	Max. fee £179	£90 (+£6 per add.)
DWA - New	£292.00	£300 (old)	£394.00	£97.00	£100.00
DWA - Renewal	£210.00	£283 (old)	£394.00	£97.00	£100.00
Pet Shop - New	£292.00	£347.00	£120.00	£96.00	£100.00
Pet Shop - Renewal	£210.00	£331.00	£120.00	£96.00	£100.00
Riding establishment - New	£292.00	£342.00	Max. fee £304	Max. fee £122	£180.00
Riding establishment - Renewal	£210.00	£326.00	Max. fee £304	Max. fee £122	£180.00
Zoo - New	£436.00	£347.00	£818.00	£300.00	£300.00
Zoo - Renewal	£375.00	£331.00	£717.00	£300.00	£200.00

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REGULATORY COMMITTEE 8 DECEMBER 2017

REGISTRATION FEES: ACUPUNCTURE, TATTOOING, SEMI-PERMANENT SKIN COLOURING, COSMETIC PIERCING AND ELECTROLYSIS (I.E. 'BEAUTY' APPLICATIONS).

Cabinet Member(s): Colin Slade
Responsible Officer: Tom Keating, Lead Licensing Officer

Reason for Report: To recommend the adoption of registration fees set out in this report.

RECOMMENDATION: That the Regulatory Committee approves the fees set out in this report and they be introduced immediately.

Relationship to Corporate Plan: These fees link directly to the licensing function with the aim of ensuring the safety and wellbeing of our community.

Financial Implications: The potential cost of defending an appeal in the courts.

Legal Implications: Fees must be set lawfully. This means that they must be 'reasonable' and only seek to recover the cost to the specific licensing regime. Fees that are not lawful can be challenged.

Risk Assessment: In the event of a successful challenge, the Council could be liable for costs.

Equality Impact Assessment: This assessment has been carried out and is appended to this report. There are no equality issues.

1.0 BACKGROUND

- 1.1 Mid Devon District Council has statutory responsibility for the administration and enforcement of a wide range of licences, registrations and permits. Many of these schemes allow the Council to charge a fee, payable by an applicant for a licence, in order to cover the costs (or a proportion of the costs) of the administration of those licence types. In some cases, costs can include other aspects of providing the regulatory scheme, such as monitoring compliance.
- 1.2 The general principle in setting these fees is to ensure full cost recovery, or as close to this as possible. A number of legal cases over the years have confirmed that licensing fees may not be used to generate a profit for Councils, and that fees should be reviewed regularly to ensure they remain accurate. Additionally, it has become increasingly clear that authorities must be able to demonstrate how fees have been calculated.

- 1.3 Although every effort can be made to predict future income and expenditure there are always variables that are difficult to foresee. Examples include complaints received that then need to be investigated, and also the work required to implement a new legislative requirement. Due to these potential 'unknowns' it is important that consideration is given to previous surpluses or deficits that have accrued. These can legitimately be carried forward and redistributed or recouped, as necessary.
- 1.4 Some application fees are set nationally (i.e. fees under the Licensing Act); therefore the local authority has no discretion on what it charges. Other fees are set by the Council themselves and this includes the fees for beauty related registrations.

2.0 THE LEGISLATION AND REGISTRATION PROCESS

- 2.1 Under the Local Government (Miscellaneous Provisions) Act 1982, people must be registered with the local authority in order to carry out the 'beauty' related activities. Additionally, these people can only then operate from premises which are registered with the local authority.
- 2.2 The current fees do not distinguish clearly between personal registrations and premises registrations, so the proposed new fees aim to clarify this. Essentially, we will have three separate fees, as follows:
- Premises registration - The registration of a premises and ONE personal registration for a practitioner.
 - Personal registration – The registration of ONE practitioner
 - Amendment – Change of personal details (i.e. name)
- 2.3 Once a registration has been granted, it does not expire at any set point nor does it require renewing. It is essentially a one-time registration and links each registered individual to a registered premises. The registration however is not 'transferable' so for example, it cannot change from one individual or premises to another individual or premises. New people or premises would require a completely new registration.
- 2.4 In Mid Devon, the Licensing team deal with the administration of registrations and colleagues in the Environmental Health team help by inspecting premises and discussing specific registration requirements with the applicants. This process works well because the Licensing team is set up to deal with applications on a daily basis and essentially then they consult with Environmental Health as it does on a number of other applications.

3.0 BEAUTY RELATED FEES – FEE SPREADSHEET

- 3.1 The current fee for these registrations is £100.00 and this has been the fee since 1st May 2011. The fee has not been reviewed since then largely because of the limited number of these types of registrations that are received.

3.2 A fee spreadsheet has been produced in a similar vein to that of the Hackney Carriage and Private Hire spreadsheet. It essentially provides a breakdown of all chargeable elements of a registration and allows for the fees to be easily updated in the future.

3.3 If Members of the Committee (or any interested party) wish to see or discuss the full spreadsheet in advance of the meeting, we ask that they contact the Licensing team. The spreadsheet will be available to view at the meeting but as an overview, it contains the following information:

- 'Fee' tab which provides an overview of the total final cost of each registration, adding together the cost of processing an application and the general administration cost that applies year on year.
- 'Administration' tab which outlines the general time and costs allocated year on year to the maintenance of the regime (not specific to the processing of an individual application). This includes things like general admin, updating web pages, staff training and policy and procedural amendments / developments.
- 'Personal registration' tab which goes through the registration process for an individual, from initial contact to issue of a certificate. This includes some time for an Environmental Health officer.
- 'Premises registration' tab which goes through the registration process for a premises, from initial contact to the issue of a certificate. This includes the time for an Environmental Health Officer to inspect the premises and complete a report. This fee also includes the registration of one person.
- 'Amendment' tab which covers simple changes to a registration, like if someone has changed their surname.

3.4 It is important to note that the 'amendment' fee does not cover a change in activity. For example, the addition of tattooing for an individual just registered for piercing, nor does it include the relocation of a premises. In both of these examples, a new registration would be required as there is more work involved than a simple amendment.

4.0 PROPOSED FEES

4.1 The proposed new fees are as follows:

- | | |
|--|---------|
| • Personal registration: | £112.00 |
| • Premises registration (including 1 personal registration): | £217.00 |
| • Simple amendment to the certificate: | £7.00 |

- 4.2 Benchmarking the proposed fees with neighbouring authorities does provide some context but it must be noted that each authority is different and can legitimately charge different fees. Variables such as the number of registrations, number of staff, their costs and previous deficits / surpluses are all relevant and are not factored into straightforward comparisons. With this in mind, a comparison of the proposed fees with some of our neighbouring authorities is provided below.

Name of authority	Cost of Personal registration	Cost of Premises registration
Mid Devon	£112.00	£217.00 (incl. 1 person)
Plymouth	£111.00	£180.00 (+£50.00 for 1 person)
Teignbridge	£40.00	£80.00 (incl. 1 person)
Exeter	£45.00	£90.00 (incl. 1 person)
Cornwall	£139.00	£139.00
Torridge	£49.50	£124.00
North Devon	£67.70	£67.70
South Hams	£112.00	£112.00

5.0 PREVIOUS INCOME AND EXPENDITURE

- 5.1 This is the first time that the fee spreadsheet has been used to calculate the fees for ‘beauty’ related registrations. By reviewing the fee setting process this has shown that the existing fees are not covering the costs of the registration process. It is not intended to go back and seek to recover any previous potential deficits because we cannot be certain of previous year’s costs. Additionally, we do not receive many of these registrations (8 per year on average) so any potential deficit would be relatively minor.
- 5.2 The fees have been set at a level in order to try and achieve cost recovery (i.e. neutrality). The fees can then be reviewed in the future using the same method to provide a clearer picture of income / expenditure.

6.0 RECOMMENDATIONS AND TIMESCALE

- 6.1 It is recommended that the Regulatory Committee approves the fees as set out in this report, and that they be introduced immediately.

Mid Devon District Council

Equality Impact Assessment Form

NAME OF NEW OR REVISED PROPOSAL	Amend locally set Licensing Fees
SERVICE AREA	Licensing
CONTACT OFFICER	Tom Keating, Lead Licensing Officer
DATE FOR NEXT REVIEW OR REVISION	When the fees are next reviewed

PURPOSE OF THE PROPOSAL

1	<p>What is the proposal intended to achieve?</p> <p>The authority has a statutory duty to administer certain licences, registrations and permits. A number of these have fees attached. Some fees are set centrally by government e.g. alcohol licences, some permits such as street collections for charities are free of charge and the remaining can be determined locally in order to recover the cost of providing a particular service.</p> <p>Fees set locally must be reviewed to ensure that the Authority is complying with the requirements of both the legislation and relevant case law.</p>
2	<p>Who are the service users affected by the proposal?</p> <p>People applying for licences and permits. The proposed fees will apply equally to everyone.</p>

IMPACT ON THE PUBLIC AND STAFF

3	<p>Does the proposal ensure that everyone has an equal access to all the services available, or proposed, or benefits equally from the proposed changes, or does not lose out in greater or more severe ways due to the proposals?</p> <p>The Council ensures that it treats all individuals and organisations that are renewing or making new applications for licenses, with equal respect. Fees apply across the board to everyone and applications can be made in person by appointment, on line and by post.</p>
	<p>Actions required</p> <p>None</p>

4	<p>What are the consequences of the above for specific groups?</p> <p>Information on the impact of fee increases on specific groups is not available. All applicants are subject to payment of fees irrespective of their individual characteristics or circumstances.</p> <p>The authority is entitled to recover the cost of these specific licensing functions.</p>
	<p>Actions required</p> <p>None</p>

INFORMATION COLLECTION

5	<p>Is full information and analysis of users of the service available?</p> <p>Users of the licensing service are not restricted to those who apply for licences. It also includes the public that use the services of the licensed activity. There is no specific information or analysis of users of the service.</p> <p>Applicants apply for a wide variety of licences and permits dependent on the business that they operate and the legislation controlling specific activities. The Government sets legislation and licence requirements, the Licensing service then has an obligation to administer the licensing regime within the parameters set out by legislation. Failure to obtain the correct licence, registration or permit can render a person guilty of offences for which they can be prosecuted. An applicant must satisfy the requirements of the legislation licensing requirements prior to the grant of a licence.</p>
	<p>Actions required</p> <p>None</p>

CONSULTATION

6	<p>What consultation has taken place?</p> <p>There is a statutory requirement to advertise some fees but this is not the case for the fees under consideration here. As a result, no consultation has taken place.</p>
	<p>Actions required</p> <p>None</p>

MONITORING AND REVIEW

7	How will the proposal be monitored? Fees are regularly reviewed and numbers of applications can be compared year on year to assess any possible impact. It should be noted that there are many other factors that can influence changes in demand for various licences.
	Actions required When reviewing fees, consider the average number of applications year on year. If there is a significant decrease this will be analysed to ensure it is not an equality related issue.

8	How will the above be evaluated? As above and consider any action required in light of results.
	Actions required As above

9	Have any support / guidance / training requirements been identified? No
	Actions required None

10	Where you have identified mitigating factors in previous answers that lessen the impact on any particular group in the community, or have identified any elsewhere, please summarise them here. N/A
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COMPLETED BY:	Tom Keating
POSITION:	Lead Licensing Officer
DATE:	23 November 2017
NAME OF HEAD OF SERVICE:	Simon Newcombe

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