

Cabinet

15 July 2020



Title	Amendment to licensing fees and the introduction of a pavement licencing fee.		
Purpose of the report	To make a decision		
Report Author	Tracey Willmott-French, Senior Environmental Health Manager		
Cabinet Member	Councillor Richard Barratt	Confidential	No
Corporate Priority	Financial Sustainability		
Recommendations	Cabinet is asked to: - 1. Approve the annual licensing fee for street traders, and 2. Approve the annual licensing fee for private hire driver re-testing. 3. Approve a correction to the breakdown of HMO licensing fees. 4. Approve a new fee for the provision of pavement licences. 5. To note that the HMO licensing fees are to be reviewed to ensure that charges reflect costs incurred and value for money.		
Reason for Recommendation	These fees have been missed from the Fees and Charges report which went to Cabinet for approval on the 26 February 2020. Approval is also sought for a new licensing fee. To note that HMO fees are due to be reviewed.		

1. Key issues

Licensing fee amendments

- 1.1 Spelthorne Borough Council is the licencing authority for a wide range of activities including taxi hire, street traders (e.g. ice-cream and mobile food vendors); dog breeding; scrap metal dealers; and many others.
- 1.2 Councils are strongly encouraged to recover the full costs of their statutory licensing activities from the businesses who benefit (i.e. the licence holder), rather than placing the financial burden on the local tax payer. The tasks associated with licensing activities that are recoverable include processing the licence application, compliance inspections, office overheads, management of licensing administration systems, and staffing costs.
- 1.3 As part of the Council's annual fee setting process, along with all other fees, the licensing fees are submitted to Cabinet for approval. This year two licensing fee records were omitted from the fee setting report. These were for street trader licences and private hire driver knowledge re-testing.
- 1.4 An error has also been identified in the breakdown of the HMO fees which are still showing the breakdown for last year's fees. These need to be updated to

reflect the 2020/2021 breakdown for the HMO licence fees (the total HMO fees that Cabinet approved in February 2020 are correct). This error and the corrections are shown in **Appendix 1**.

New temporary pavement licence provision

- 1.5 As part of the coronavirus business recovery plan, the Business and Planning Bill will make temporary provision for the application for a pavement licence to permit the placement of furniture on part of highway adjacent to a relevant premises. This will allow the licence-holder to sell or serve food or drink supplied in connection with the relevant use of the premises. It also allows the use of the furniture for the consumption of food and drink on or off the premises. Further information about the new temporary Pavement Licences is given at **Appendix 2**.
- 1.6 This licensable activity usually falls within the remit of Surrey County Council as the highways authority. However, in this instance, the duty to deal with this licensable activity is being given to District and Borough local authorities.
- 1.7 The Act makes provision for the Council to recover the costs it incurs to process licences to a maximum of £100 per licence. This work will be time consuming because amongst other things, relevant service areas and external stakeholders will need to be consulted on issues of public safety and disorder, nuisance and environmental related issues; consequently use of the maximum permitted fee of £100 will not recover the full costs incurred.

Houses in Multiple Occupation Fee Review

- 1.8 It has been almost two years since the legal definition of a houses in multiple occupation (HMO) changed which meant that many more HMOs were required to apply to local authorities for an HMO licence. Sufficient data is now available to enable the HMO licencing fees to be reviewed to ensure they are representative of the work incurred, and are transparent and equitable to both the local tax payer and business.
- 1.9 Once Environmental Health workloads become more stable and less responsive to covid-19 demands, the HMO fees will be reviewed and brought back to Cabinet with a revised proposal in-year. However, any further occurrence of additional coronavirus peaks will interrupt this plan, in which case the updated fees will be submitted for approval along with next years' fees.

2. Options analysis and proposals

- 2.1 To request Cabinet's approval for the following fees for 2020-2021:-
 - An annual street trader's licence fee of £892 (2019-20 fee was £875).
 - A taxi driver knowledge re-test fee of £38 (2019-20 fee was £37)
- 2.2 Cabinet is asked to approve the corrections to the breakdown of HMO licence fees as shown in **Appendix 1** (NB. the overall cost for 2020/21 is correct and will remain as shown in the approved fees).
- 2.3 Cabinet is asked to approve an application fee of £100 to cover some of the costs associated with pavement licensing applications.

- 2.4 Cabinet could propose alternative fees to those presented above, but Cabinet need to be mindful that where possible fees should cover the Council's costs. Likewise Cabinet could decide upon a lesser fee for the pavement licences, however, Cabinet is reminded that it is already the situation that the maximum £100 fee will not cover all of the Council's costs.

3. Financial implications

- 3.1 For 2020-21, fees were increased by 2% in reflection of the cost of living increase in salaries and overheads.

Street Traders - currently there are three licensed street traders in the Borough and application enquiries have been received for a further two. A fee of £892 represents an annual cost recovery of £4,460 for 2020-21 for the five licences outlined above.

Taxi Driver re-tests – on average 15 taxi drivers need to re-take failed knowledge tests each year. A fee of £38 represents an annual recovery of costs of approximately £570.

- 3.2 Pavement Licence - There are some 400 restaurants / cafes in Spelthorne. If it is assumed that 20% of these business will make an application for a pavement licence, and if an application fee of £100 is approved, approximately £8,000 of the costs incurred by the Council would be recovered.
- 3.3 If all of the above proposed fees are approved, the total recovery of the Council's costs incurred in carrying out the three licensing activities outlined would be approximately £13,000.

4. Other considerations

There are none

5. Sustainability/Climate Implications

- 5.1 No implications

6. Timetable for implementation

- 6.1 Following cabinet approval

Background papers: None

Appendices: -

Appendix 1 - breakdown of HMO fees correction
Appendix 2 – Summary of Pavement Licensing



Breakdown of HMO Licensing Scheme (2020-21)

APPENDIX 1

The table below is taken from this year's licensing fees document. Column 1 is showing a breakdown for 2019-20 fees, these should have been updated to reflect the new fees, which are correctly shown in table 2.

Table 1 – Incorrect breakdown of fees (column 1 refers)

Fees and Charges

Printed Date: 19/02/2020

Last modified: 19/02/2020

STATUTE

Licensing

HMO Licensing Scheme

HMO Licence

	2019/20	2020/21	VAT	Record	
a) Up to 6 Occupants (application fee £504.00; maintenance fee £188)	692.00	705.50	O	1008	Discretionary
b) 7 to 9 occupants (application fee £555; maintenance fee £301)	856.00	873.00	O	1009	Discretionary
c) 10 to 14 occupants (application fee £605; maintenance fee £335)	940.00	958.50	O	1010	Discretionary
d) 15 or more occupants (application fee £655; maintenance fee £398)	1,053.00	1,074.00	O	1011	Discretionary
e) Penalty for late or incomplete applications	131.00	133.50	O	1012	Discretionary
f) Extra charge for processing separate licence holder and manager applications	33.50	34.00	O	1013	Discretionary
g) Discount for members of an approved landlords association	33.50	34.00	O	1014	Discretionary

HMO Licence Renewal

a) Up to 6 Occupants (application fee £350; maintenance fee £169)	519.00	529.50	O	1261	Discretionary
b) 7 to 9 occupants (application fee £405; maintenance fee £237)	642.00	655.00	O	1262	Discretionary
c) 10 to 14 occupants (application fee £460; maintenance fee £245)	705.00	719.00	O	1263	Discretionary
d) 15 or more occupants (application fee £515; maintenance fee £275)	790.00	805.50	O	1264	Discretionary
e) Penalty for late or incomplete applications	131.00	133.50	O	1265	Discretionary
f) Extra charge for processing separate licence holder and manager applications	34.00	34.50	O	1266	Discretionary
g) Discount for members of an approved landlords association	34.00	34.50	O	1267	Discretionary

Table 2 – Corrected breakdown of fees (shown in red below in column 1)

HMO Licensing Scheme	2019/20 Charge	2020/21 Charge	VAT	Record No
HMO New Licence				
a) Up to 6 Occupants (application fee £514.00; maintenance fee £191.50)	692.00	705.50	O	1,008
b) 7 to 9 occupants (application fee £566; maintenance fee £307)	856.00	873.00	O	1,009
c) 10 to 14 occupants (application fee £617; maintenance fee £341.50)	940.00	958.50	O	1,010
d) 15 or more occupants (application fee £668; maintenance fee £406)	1,053.00	1074.00	O	1,011
e) Penalty for late or incomplete applications	131.00	133.50	O	1,012
f) Extra charge for processing separate licence holder and manager applications	33.50	34.00	O	1,013
g) Discount for members of an approved landlords association	33.50	34.00	O	1,014
HMO Licence Renewal				
a) Up to 6 Occupants (application fee £357; maintenance fee £172.50)	519.00	529.50	O	1,261
b) 7 to 9 occupants (application fee £413; maintenance fee £242)	642.00	655.00	O	1,262
c) 10 to 14 occupants (application fee £469; maintenance fee £250)	705.00	719.00	O	1,263
d) 15 or more occupants (application fee £525; maintenance fee £280.50)	790.00	805.50	O	1,264
e) Penalty for late or incomplete applications	131.00	133.50	O	1,265
f) Extra charge for processing separate licence holder and manager applications	34.00	34.50	O	1,266
g) Discount for members of an approved landlords association	34.00	34.50	O	1,267





APPENDIX 2

Business and Planning Bill

(Expected to come into force end of July - beginning of August 2020)

1. The Bill proposes a fast track licensing system for the application of pavement licences, at a reduced cost. Spelthorne Borough Council will be the licencing authority for the provision of the temporary pavement licences proposed by the Bill. The temporary pavement licenses cannot be granted for a period that extends beyond 30 September 2021.
2. Pavement licences can only be granted for highways listed in section 115A(1) of the Highways Act 1980. Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).
3. Under existing legislation pavement licences are determined by SCC. In addition to pavement licences, licence holders also need to have planning permission covering the furniture placement are; hold a street trader's licence also covering the area in which the furniture is placed, and if they were proposing to serve alcohol they would need to hold a premises licence.
4. Under the new proposals, approval of a temporary pavement licence will mean that the applicant also benefits from having deemed planning permission and a deemed street traders licence for the area of the furniture placement.
5. Applications for a pavement licence must be determined within 14-days of its application being made to the Council. During this time they must consult with the public and stakeholders for seven days. If the authority has not determine the licence by the end of the 14-day period then the licence is deemed granted for 12-months, but not beyond 30 September 2021.
6. The minimum duration that the Council can specify for a licence is three months, but only if it has good reason to limit the term of the licence.
7. Reasonable and necessary conditions can be placed on the licence. These can include conditions for public health & safety (e.g. obstruction, Covid-19), public amenity (control of nuisance, ASB and litter), operational times, and other relevant matters. Justifications for conditions need to be included. Conditions can be a national or local, primacy is given to local conditions. Local conditions will be developed in consolation with internal services and external agency stakeholders.
8. There is no statutory appeal process for the Council's decisions, however, it is general good practise to put in place an internal review process to account for this. A system will be put in place.

9. Enforcement action can be taken for breach of licence conditions requiring breaches to be remedied through the service of enforcement notices. Licences can be revoked in certain circumstances.