



DISTRICT COUNCIL

Despatched: 25.01.12

LICENSING COMMITTEE

01 February 2012 at 6.00 pm

Conference ROOM, ARGYLE ROAD, SEVENOAKS

AGENDA

Membership:

Chairman: Cllr. Pett

Cllrs: Abraham, Mrs. Ayres, Ayres, Clark, Cooke, Davison, Mrs. Dawson, Firth, Fittock, Hogarth, Mrs. Parkin, Piper, Raikes and Walshe

1. Apologies for absence.
2. Minutes of the Previous Meetings (Pages 1 - 14)
Minutes of the meeting of the Committee held on 26 October 2011 and of the Sub-Committee held on 8 November 2011
3. Declarations of interest
4. Actions from the Previous Meeting (Pages 15 - 16)
5. Gambling Act 2005 - Fees for 2012/13 Anthony Garnett (Pages 17 - 26)
6. Hackney Carriage and Private Hire Licensing: License Fees 2012/13 Anthony Garnett (Pages 27 - 32)
Anthony Garnett

To assist in the speedy and efficient despatch of business, Members wishing to obtain factual information on items included on the Agenda are asked to enquire of the appropriate Director or Contact Officer named on a report prior to the day of the meeting.

Should you require a copy of this agenda or any of the reports listed on it in another format please do not hesitate to contact the Democratic Services Team as set out below.

For any other queries concerning this agenda or the meeting please contact:

The Democratic Services Team (01732 227241)

This page is intentionally left blank

LICENSING COMMITTEE

Minutes of the meeting of the Licensing Committee
held on 26 October 2011 commencing at 6 p.m.

Present: Cllr. Pett (Chairman)

Cllrs. Abraham, Mrs. Ayres, Ayres, Cooke, Davison, Fittock, Hogarth,
Mrs. Parkin, Raikes and Walshe.

8. APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllrs. Clark, Mrs Dawson, Mrs Firth and Piper.

9. MINUTES OF PREVIOUS MEETINGS

Resolved: That, the minutes of the meeting of the Licensing Committee held on 22 March 2011 and the Sub-Committees held on 10 June 2011 be approved and signed by the Chairman as correct records.

10. DECLARATIONS OF INTEREST

All Councillors present declared a personal interest in Minute Item 11 by virtue of knowing Cllr. John Underwood, who was a taxi driver in the District.

Cllr. Ayres declared a personal interest in Minute Item 11 by virtue of knowing Mr. Shanker Gaire, who was a taxi driver in the District.

Cllr. Pett declared a personal interest in Minute Item 11 by virtue of knowing Colin Annetts, who was a taxi driver in the District.

11. DRAFT TAXI LICENSING POLICY (Report No. 4)

The Assistant Licensing Partnership Manager presented the report which gave detailed feedback from the consultation period for the Draft Statement of Hackney Carriage and Private Hire Policy which ran for six weeks from the 26 August 2011 until the 7 October 2011. The proposed policy amended the current policy that Sevenoaks District Council had in operation which was last issued in January 2008. Members noted that there is no statutory requirement for a Licensing Authority to produce a Hackney Carriage and Private Hire Licensing Policy but that the Department for Transport "Best Practice" recommends that one is in place.

The Chairman advised that he had met with Mr. Rizvi the lead petitioner of a petition received against the proposed penalty points system, who was also present at the meeting. He asked whether he had had an opportunity to relay the conversation to his colleagues. Mr. Rizvi reported that he had but that it was still felt that the penalty points system was unnecessary.

Members considered the feedback attached at Appendix B in great detail.

Agenda Item 2
Licensing Committee – 26 October 2011

Members considered the suggestion that the minimum number of passengers be reduced to 1 (i.e. the Smart car etc). It was agreed that Officers should explore this further, but that it should be left as it was for the time being.

Action 1: Officers investigate and report back to a future meeting.

Members discussed applicants for licences involving vehicles that had been converted to run on Liquid Petroleum Gas (LPG) and agreed suitable wording that where a spare wheel is not possible it should read 'Where relocation of the spare wheel is not possible an acceptable alternative, as supplied by the conversion company, will be permitted.'

When considering concerns expressed with regard to the new internal plates and wearing of badges the Assistant Licensing Partnership Manager advised that these had been redesigned, and plastic receptacles would be provided for the internal plate.

Members agreed that it may not be practicable for drivers to search their vehicle after every journey but felt that a daily search should be a minimum requirement and/or should make reference to a search after each shift.

It was agreed that there should be an insertion of a requirement under 'Breach of Policy Requirement' "Failure to display the internal driver's badge" 4 – 6 (points) and "Failure to display the internal vehicle plate" 4 – 6 (points).

Members' acknowledged the concerns expressed by taxi drivers with regard to the proposal of the penalty points.

Resolved: That:

- (i) All the representations and comments received following the consultation be noted,
- (ii) the Officer comments and recommendations set out at Appendix B, be approved and included in the final policy, subject to the comments/amendments made at the meeting; and,
- (iii) the final policy be REFERRED to Full Council for adoption.

12. CONSIDERATION OF EXEMPT INFORMATION

Resolved: That, under section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the ground that likely disclosure of exempt information is involved as defined by the relevant paragraph as respectively identified of Schedule 12A to the Local Government Act 1972.

At 6.58 p.m. the Chairman adjourned the Committee for the convenience of Members and Officers. The meeting resumed at 7.05 p.m.

13. REVIEW OF PRIVATE HIRE OPERATOR LICENCE (Report No. 5)
(Schedule 12 A, paragraph 1. Information relating to any individual.)

Members' reviewed a Private Hire Operator's licence which was issued on 29 June 2009, on grounds under Section 62 of the Local Government (Miscellaneous Provisions) Act 1976, as detailed within the report. In the absence of the attendance of the Private Hire Operator, the Licensing Officer summarised the evidence provided within the report and advised the Committee that on 25 October 2011 a letter had been hand delivered to the Council responding to a number of points previously raised and surrendering three vehicle plates. Only one of the vehicle plates surrendered had been involved in the incidents detailed within the report. One plate was still outstanding. Great effort had been made to get in touch with the Private Hire Operator to see if she wished to surrender her Operator's Licence but no contact had been made prior to this meeting.

Members expressed concern that any decision reached by the Committee would not be received by the Private Hire Operator. It was agreed that the decision should be sent by recorded delivery to both her business and home address, and failing that the Assistant Licensing Partnership Manager undertook to hand deliver the decision notice.

Having considered the papers provided to them the Committee,

Resolved: That the Private Hire Operator Licence be revoked due to the persistent failure to produce records, the employment of drivers who did not have current private hire drivers licenses, failure to respond to reasonable requests from Council Officers and on grounds of public safety.

14. REVIEW OF HACKNEY CARRIAGE DRIVERS LICENCE (Report No. 6)
(Schedule 12 A, paragraph 1. Information relating to any individual.)

The Licensing Officer summarised the evidence provided within the report and explained that the purpose of the hearing was to seek a review of a Hackney Carriage drivers licence giving consideration to section 61 of the Local Government Miscellaneous Provisions) Act 1976 which included dealing with offences such as dishonesty, indecency or violence or any other reasonable cause, as detailed within the report. The Licensing Officer advised that when applying to be licensed as a Hackney carriage driver, applicants needed to demonstrate that they were a fit and proper person.

With regard to further information the respondent had supplied to the Council on 25 October 2011, it was noted that all present had received a copy and had read it before the meeting. However the Chairman pointed out that it was not relevant to the hearing.

The Committee heard from all present and were given the opportunity to ask questions on the statements made.

Agenda Item 2
Licensing Committee – 26 October 2011

At 7.47p.m. the Hackney Carriage Driver, Police representative and all Officers present except for the Legal Services Manager and Democratic Services Officer withdrew from the Conference Room.

At 8.20 p.m. All returned to the Conference Room, to hear the decision.

Having considered the papers provided to them and heard from all peoples present, the Committee noted that despite the submissions the Hackney Carriage Driver had accepted a Police caution in relation to the offence and as such had admitted that offence.

The Committee considered that Hackney Carriage Driver was in a position of trust and that public safety was paramount. Working as a driver of a hackney carriage, he would come into contact with many people. In determining the matter, it was necessary for the Committee to consider whether he continued to be a fit and proper person to hold a hackney carriage licence.

Resolved: That:

- (i) the nature of the event appeared so serious that a period of suspension of 6 months would allow him to reflect and become a fit and proper person again;
- (ii) has the right of appeal to the Magistrate's Court (Sevenoaks) within a period of 21 days from the date of this decision, after which the suspension of his Hackney Carriage Licence would take effect. During that 6 month period he may not work as a taxi driver, and should reflect upon his conduct, to become a fit and proper person; and,
- (iii) it be recommended that it may be helpful to seek advice on anger management during the 6 month suspension period.

15. REVIEW OF HACKNEY CARRIAGE DRIVERS LICENCE (Report No. 6)
(Schedule 12 A, paragraph 1. Information relating to any individual.)

The Licensing Officer summarised the evidence provided within the report and explained that the purpose of the hearing was to seek a review of the Hackney Carriage drivers licence giving consideration to section 61 of the Local Government Miscellaneous Provisions) Act 1976 which included dealing with offences such as dishonesty, indecency or violence or any other reasonable cause, as detailed within the report. The Licensing Officer advised that when applying to be licensed as a Hackney carriage driver, applicants needed to demonstrate that they were a fit and proper person.

The Committee heard from the Hackney Carriage Driver, and Police representative, and all present were given the opportunity to ask questions on the statements made.

At 8.44p.m. the Hackney Carriage Driver, Police representative and all Officers present except for the Legal Services Manager and Democratic Services Officer withdrew from the Conference Room.

At 9.20 p.m. All were asked to return to the Conference Room, to hear the decision.

Having considered the papers provided to them and heard from all peoples present, the Committee noted that despite the submissions he had accepted a Police caution and as such had admitted that offence.

The Committee considered that the Hackney Carriage Driver was in a position of trust and that public safety was paramount. Working as a driver of a Hackney carriage, he would come into contact with many people. In determining the matter, it was necessary for the Committee to consider whether he continued to be a fit and proper person to hold a hackney carriage licence.

The Committee noted the previous suspensions and were deeply concerned that he continued to fall beneath the standards expected.

Resolved: That:

- (i) the nature of the event appeared so serious that a period of suspension of 9 months would allow him to reflect and become a fit and proper person again;
- (ii) he has the right of appeal to the Magistrate's Court (Sevenoaks) within a period of 21 days from the date of this decision, after which the suspension of his Hackney Carriage Licence would take effect. During that 9 month period he may not work as a taxi driver, and should reflect upon his conduct, to become a fit and proper person;
- (iii) it be recommended that it may be helpful to seek advice on anger management during the 9 month suspension period; and,
- (iv) this third suspension was viewed very seriously and that it was extremely likely that any repetition would have the most serious consequences.

THE MEETING WAS CONCLUDED AT 9.25 P.M.

Chairman

LICENSING COMMITTEE – LICENSING HEARING

Minutes of the meeting of the Licensing Hearing
held on 8 November 2011 commencing at 2.20 p.m.

Present: Sub-Committee B: Cllrs. Ayres, Cooke and Fittock
(Substitute)

Also present: Mrs. L. Sharkey - Applicant's Legal Representative
Mr. J. Stone - Applicant (Operations Manager)
Mr. S. Thomas - Applicant (Head of Marketing)
Mr. J. Rogers - Supporter (resident)
Mr. J. Crouch - Supporter (resident)
Cllr. M. Short - Representing Sevenoaks Town
Council
Mr. A. Smith - Objector (resident)
Mrs. J. Smith - Objector (resident)
Mr. E. Owen - Objector (resident)
Mrs. P. Owen - Objector (resident)
Cllr. Mrs. Ayres - Sevenoaks District Council (Observer)
Mrs. C. Perry - Assistant Licensing Partnership
Manager
Mr. C. Ormondroyd - Sevenoaks District Council Legal
Adviser
Mr. C. Hook - Environmental Protection Officer
Ms V. Etheridge - Democratic Services Officer

1. ELECTION OF CHAIRMAN

Resolved: That Cllr. Cooke be appointed Chairman of the meeting.

2. DECLARATIONS OF INTEREST

No declarations of interest were made.

3. APPLICATION FOR A PREMISES LICENCE FROM THE
WONDERLOUNGE, 138A - 138B HIGH STREET, SEVENOAKS,
KENT. TN13 1XE FOR A VARIATION UNDER THE LICENSING ACT
2003

The Hearing gave consideration to a report by the Community and Planning Services Director giving details of an application for a Premises Licence for the Wonderlounge, 138A - 138B High Street, Sevenoaks, Kent. TN13 1XE for a variation under the Licensing Act 2003. The application was made by The Chicago Pizza Pie Factory Limited, Seebeck House, 1 Seebeck Place, Knowhill, Milton Keynes, MK5 8FR. It was noted that objections had been received and that accordingly the application had been referred to the Sub-Committee for determination. It was noted that the applicant had agreed conditions with the Police, which had been circulated to all parties prior to the Hearing along with a copy of the cocktail menu, and that they had therefore withdrawn their objections and would not be present at the Hearing. The

Agenda Item 2 Licensing Hearing – 8 November 2011

Chairman advised that within the agenda it had stated that the Development Control Team had no adverse comments regarding the application, as a point of clarification it was noted that in fact no representation had been received from them within the relevant time limit.

The Hearing heard from the applicant's representatives, and two local residents in support of the application. The applicant's legal representative advised that the applicant wished to amend the application and apply for an extension of opening hours to 0130 hours and 0100 hours for permitted licensable activities on Thursdays, Fridays and Saturdays only. The applicant's legal representative reminded the Hearing that conditions had been agreed between them and the Police who, as a result, had subsequently withdrawn their objections. They had also agreed some of the conditions recommended by the Environmental Health Officer as set out at Appendix D of the report.

The Hearing heard from the objectors who raised the concerns of residents, in particular the noise emanating from the use of the 'rear garden' area, and the general noise, disturbance and unruly behaviour of patrons exiting late licensed establishments.

The Chairman adjourned the Committee for the convenience of Members, Officers and members of the public, and to give the opportunity for the Council's and applicant's legal representatives to liaise on wording for further possible conditioning.

At 3.27 p.m. the Hearing adjourned.

At 3.37 p.m. the Hearing reconvened.

The Council's legal adviser informed the Sub-Committee that they had agreed on possible conditions for the licence.

The Chairman asked all those present whether they objected to Cllr. Mrs. Ayres attending the deliberations as an Observer. No objection was raised.

At 3.44 p.m. the Hearing Members, Council's Legal Adviser and the Observer withdrew to consider the issues raised.

At 4.34 p.m. the Hearing Members, Council's Legal Adviser and Observer returned to the Council Chamber.

The Chairman informed the Hearing that the Sub-Committee had had regard to the representations made by the Applicant and interested parties, to the guidance issued under s 183 of the Licensing Act 2003 and the Council's Statement of Licensing policy.

In view of the reduced scope of the application, the fact that the Police and Environmental Health Officer had now withdrawn their objections and the extensive conditions accepted by the Applicant, the Sub Committee was satisfied that granting the application would be in accordance with the relevant licensing objectives.

It was therefore unanimously,

Resolved: That the Premises Licence and variation in respect of The Wonderlounge, 138A - 138B High Street, Sevenoaks, Kent. TN13 1XE subject to the conditions contained in the licence attached as an appendix to these minutes, be granted.

THE MEETING WAS CONCLUDED AT 4.37 P.M.

LICENSING ACT 2003 – Sections 35 and 36

Notice of determination of application for variation of premises licence

To: The Wonderlounge

Of: 138A - 138B High Street, Sevenoaks, Kent. TN13 1XE

Ref: 11/02544/LAPRE

Sevenoaks District Council being the licensing authority, on the 13 September 2011 received an application to vary the premises licence in respect of premises known as The Wonderlounge, 138A – 138B High Street, Sevenoaks, Kent, TN13 1XE.

On the 8 November 2011 there being valid representations which were received and had not been withdrawn, a hearing was held to consider these representations, and having considered them the Licensing Sub-Committee determined as follows:

To grant the variation to the Premises Licence:

Section B	To allow the exhibition of films indoors from 08:00 hours (existing, no change) until 01:00 hours on Thursdays, Fridays and Saturdays only. This may include entertainment programs, sport, music videos and entertainment of a like kind.
Section E	To allow live music indoors on Thursdays, Fridays and Saturdays only from 08:00 hours (existing, no change) until 01:00 hours. This may be unamplified or amplified. May be via artists singing, Karaoke, DJ or other of a similar nature.
Section F	To allow recorded music indoors on Thursdays, Fridays and Saturdays only from 08:00 hours (existing, no change) until 01:00 hours. This will be played through an in-house system and/or during live entertainment events.
Section G	To allow performances of dance on Thursdays, Fridays and Saturdays only indoors from 08:00 hours (existing, no change) until 01:00 hours. Dancing by staff and/or performers.

Section H	To allow anything of a similar description to that falling within (e), (f) or (g) on Thursdays, Fridays and Saturdays only indoors from 08:00 hours (existing, no change) until 01:00 hours as per the existing licence – entertainment of a similar nature to E, For G.
Section I	To allow the provision of facilities for making music on Thursdays, Fridays and Saturdays only indoors from 08:00 hours until 01:00 hours, on Sunday from 08:00 until 22:45 hours and on Monday to Wednesday from 08:00 until 23:45 hours. Facilities may include in-house sound system, musical instruments, Karaoke equipment, video/TV screens.
Section J	To allow the provision of facilities for dancing on Thursdays, Fridays and Saturdays only indoors from 08:00 hours until 01:00 hours, on Sunday from 08:00 until 22:45 hours and on Monday to Wednesday from 08:00 until 23:45 hours. Provision of permanent/temporary dance floor.
Section L	To allow late night refreshment on Thursdays, Fridays and Saturdays only indoors from 23:00 hours (existing, no change) until 01:00 hours. Hot food and drink.
Section M	To allow sale of alcohol on Thursdays, Fridays and Saturdays only both on and off the premises from 10:00 hours (existing, no change) until 01:00 hours.
Section O	Hours premises are open to the public on Thursdays, Fridays and Saturdays only from 08:00 hours (existing, no change) until 01:30 hours.

To add the conditions on the Licence as follows:

1. CCTV to be fitted to a standard agreed to by the Police that complies with the current CCTV Code of Practice produced by the Information Commissioners Office, with all public areas, including the access and egress points covered. This is to also include any exit doorways, alleyways or any other area used for the ejection of customers.
2. The CCTV system will be maintained and serviced on a regular basis and records kept to take that effect.
3. CCTV shall be operational at all times that members of the public and/or staff are on the premises.

Appendix

4. Images shall be retained for a period of at least one calendar month by whatever means the licence holder deems appropriate.
5. The Police, Local Authority and Trading Standards will have access to these images at any reasonable time.
6. The Police, Local Authority and Trading Standards will be provided with a recording by way of tape, CD Rom or any other means of the image immediately upon request.
7. Staff will be fully trained in the CCTV system and there will be at least one member of staff on duty during trading hours who is able to provide a recording of any incident at the request of police or local authority.
8. Door supervisors will be employed at the premises from 21:00 hours until close of trading Friday and Saturday nights as a minimum.
9. A sufficient number of door staff will be employed at the premises to provide sufficient safety and security for the capacity. This will be at a ratio of 1:100 customers with a minimum of two at all times they are to be required.
10. All instances of crime and disorder will be reported to the police as soon as reasonably practicable via CCTV or radio.
11. A drugs policy will be produced by the premises licence holder and agreed with the Police.
12. Premises to be a member, and actively participate in, the Sevenoaks Pubwatch scheme.
13. In order to control noise from queuing patrons and smokers at the front of the premises appropriate staff should be employed on Thursdays, Fridays and Saturdays from 2100 hrs, and adequate signage displayed reminding patrons to consider noise impact on neighbouring residential properties.
14. Before any regulated entertainment takes place a noise limiter shall be installed and set in consultation with members of the Environmental Protection team. Any such condition should enable the noise limit to be adjusted as necessary to mitigate sound intrusion at nearby residential properties.
15. During the playing of regulated entertainment the fire exit to the garden shall not be opened (except in an emergency) unless a suitable sound lobby has been provided. Should the applicant wish to install a noise lobby details of the scheme shall be submitted to the District Council for written approval.
16. When regulated entertainment occurs access and egress to the property shall be through the sound lobby only (except in emergency).

17. The premises Licence holder shall invite the local residents (including the inhabitants of 142A High Street and the Chairman for the time being of the Acorns Residents' Association) to a meeting no less than each quarter to discuss issues relating to this licence.

To add the following informative on the Licence as follows:

The Applicant is encouraged to discuss issues relating to the 'garden' area with local residents with a view to reaching a satisfactory resolution.

All parties are reminded that should such a solution not be reached, or should the conditions of the licence not be complied with, it is possible at any stage for a responsible authority or an interested person to ask the licensing authority to review the licence.

This licence granted at the Hearing is effective from the 8 November 2011.

Dated: 11 November 2011

Signed

Chair – Licensing Hearing

Signed

Designation – Assistant Licensing
Manager

Please address any communications to:

Licensing Regime
Community and Planning Services
Council Offices
PO Box 182
Argyle Road
Sevenoaks
Kent TN13 1GP

Note: Pursuant to Part 1 of Schedule 5 of the Licensing Act 2003 as amended, any party eligible to appeal must appeal to a magistrates' court within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

ACTION SHEET - Actions from the previous meeting

ACTIONS FROM – 26 October 2011			
Action	Description of Action	Status and last updated	Contact Officer
ACTION 1	Officers to investigate reducing the minimum number of passengers in the Draft Taxi Licensing Policy, to allow for the use of smaller vehicles such as Smart cars. Officers to report to a future Committee meeting.	Officers are currently investigating the matter.	Claire Perry Ext. 7325

LICENSING COMMITTEE – 1 FEBRUARY 2012

GAMBLING ACT 2005 – FEES AND CHARGES FOR 2012 - 2013

Report of the: Deputy Chief Executive & Community and Planning Services Director

Status: For Decision

Executive Summary:

This report sets out details of the proposed fees the Gambling Act 2005 for the year 1 April 2012 until 31 March 2013 (Appendix B). Current fees are set out in Appendix A and are also shown in italic font in Appendix B.

The Gambling Act fees were first set at the Licensing Committee on 30 May 2007, (with the same fee model being used to work out the proposed fee for the forthcoming year using a 3% inflation factor with rounding to “5” and “9” for the respective fee).

The District currently has eight Betting Premises that will be affected by the proposed fee increases.

This report supports the Key Aim of safe communities

Portfolio Holder Cllr. Mrs. Bracken

Head of Service Head of Environmental and Operational Services – Mr. Richard Wilson

Recommendation: It be RESOLVED that the Gambling Act 2005 fees for 2012/13 as set out in bold in Appendix B of the report be approved.

Background

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. The government has decided that for England and Wales, Licensing Authorities will determine their own fees for gambling premises licences but that the Secretary of State will prescribe the maximum fee payable for each category of licence.
2. After consulting widely and obtaining and considering information from licensing authorities and the gambling industry, the Department for Culture, Media and Sport (DCMS) has prescribed maximum fees for each type of

Item No. 5

premises and each type of application for which a fee is payable. The maximum levels have been included in Appendix B in brackets for comparison purposes.

3. There will be an initial fee to cover the cost of application and an annual “maintenance” fee.
4. The DCMS has asked Licensing Authorities 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 (Gambling Act Section 212 (2)(d)) and will be required to review their fee levels on an annual basis to ensure this.
5. The DCMS believe this approach will ensure fairness and value for money, while also allowing Licensing Authorities to fully recover the costs associated with premises licensing.

Introduction

6. The Local Authorities Coordinators of Regulatory Services (LACORS) published a fees toolkit to assist local authorities in compiling the fees levels and has advised authorities that it believes trade bodies of gambling premises will be undertaking judicial review proceedings against authorities which it believes are not setting their fees on the basis of cost-recovery.
7. Fees must be set for all types of premises licences and Temporary Use Notices (TUNs).

Premises type

- casinos
 - bingo
 - betting (off-course)
 - tracks (on-course betting)
 - adult gaming centres
 - family entertainment centres
8. The fees must be determined for the different classes of premises as set-out in the fees regulations (see Gambling Act 2005 Section 212(2)(b) and SI 2007 / 479 paragraph 3) and cannot be based, for example, upon premises size, rateable value, etc.
 9. Fees must be set by each Licensing Authority for the following:
 - application for a (new) premises licence;
 - application to vary a premises licence;

Item No. 5

- application to transfer the licence (Sections 188 and 189);
- application for re-instatement of the premises licence (Sections 195 & 196);
- 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 (Sections 190);
- fee to accompany a notification of change of circumstances (only relevant change is that of address - Section 186); and
- fee to accompany a temporary use notice (Section 219).

Fees and Income

10. The fees have been calculated by examining the “time” it takes to carry out the various tasks and who in the authority is likely to carry them out. The hourly rates of staff, including on costs for various members of staff, were provided by Finance. Then these hourly rates are fed in to a spreadsheet produced by the DCMS to calculate costs for each type of activity. For each application the processes involved are identified and the costs of each process are calculated and entered in to the spreadsheet provided by LACORS, which produces an average cost for each type of application and an annual fee.
11. The type of tasks involved in premises application, for example, includes assistance to applicant (pre-application stage, including telephone advice, sending forms, etc), the checking of an application for completeness when received, checking all required documents are attached, processing the application fee, check, process, bank and reconcile payments, entering the information into our computer system (including scanning), contacting the applicant to clarify application or chase missing information if required, assess representations for relevance, undertake informal mediation, undertaking site visits where necessary, checking operating licence (this is issued by the Gambling Commission for individuals and companies who intend to provide facilities for certain types of gambling, in general these licences cover the principal commercial forms of gambling operations, s65 of the Gambling Act 2005 sets out the types of licences that may be issued). Once issued, determining the licence or arranging a hearing, holding a hearing, notification of the decision, prepare and issue the licence, update the records/register (including the notification to the Gambling Commission), appeal preparation and holding an appeal hearing.
12. The costs associated with appeals and hearings have been estimated and an estimation has been made as to the likelihood of these events occurring is entered into the final calculations. The risk of appeals and hearings occurring has been based on assumptions gathered through training on the Gambling

Act 2005 and from the authority's experience of the frequency of hearings and appeals under the Licensing Act 2003.

Key Implications

Financial

13. The current number of premises that will be subject to Gambling Act 2005 fees is eight betting shops, whose annual fees will generate £3,800 (8 x £475).

Legal, Human Rights etc.

14. Should parts of industry believe the authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake judicial review proceedings. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.

Equality

15. Equality is not effected by the setting of the Gambling Act 2005 fees.

RISK ASSESSMENT STATEMENT

16. The process of setting the proposed fees for premises licence fees for premises used for gambling is essential to ensure that operational costs are recovered using the LACORS model. If the fees are not set as recommended there is operational costs may not be recovered.
17. Should parts of industry believe the authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake judicial review proceedings. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.
18. Case law relating to fee levels in various licensing areas has agreed a general principle that licensing fees should not be used as a method of creating revenue and so setting a fee level that would result in an excess of revenue would leave the authority open to legal challenge.

Licensing Committee minutes from 30 May 2007 and 22 January 2009 – (Setting of fees for Gambling Act 2005)

Sources of Information:

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

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

Contact Officer(s): Anthony Garnett Ext. 7339

Claire Perry Ext. 7325

**DEPUTY CHIEF EXECUTIVE & COMMUNITY AND PLANNING SERVICES
DIRECTOR
KRISTEN PATERSON**

Item No. 5 – Appendix A

**SEVENOAKS DISTRICT COUNCIL'S
GAMBLING ACT 2005 - FEES
1 April 2011 – 31 March 2012**

Premises Type	New Application £	Annual Fee £
Existing Casinos	n/a	n/a
New Small Casino	6675 (8,000)	3700 (5000)
New Large Casino	7685 (10,000)	5975 (10000)
Bingo Club	2445 (3500)	685 (1000)
Betting Premises (excluding Tracks)	2445 (3000)	460 (600)
Tracks	1485 (2500)	685 (1000)
Family Entertainment Centres	1485 (2000)	565 (750)
Adult Gaming Centre	1485 (2000)	685 (750)
Temporary Use Notice	195 (500)	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	3,170 (4000)	1,405 (1800)	1,405 (1800)	6,715 (8000)	2,400 (3000)	10.50 (25)	25 (50)
New Large Casino	3,765 (5000)	1,780 (2150)	1,780 (2150)	7,690 (10000)	3,525 (5000)	10.50 (25)	25 (50)
Bingo Club	1,425 (1750)	1,200 (1200)	1,200 (1200)	2,445 (3500)	1,200 (1200)	10.50 (25)	25 (50)
Betting Premises (excluding tracks)	1,405 (1500)	1,200 (1200)	1,200 (1200)	1,465 (3000)	1,200 (1200)	10.50 (25)	25 (50)
Tracks	1,250 (1250)	950 (950)	950 (950)	1,485 (2500)	950 (950)	10.50 (25)	25 (50)
Family Entertainment Centres	1,000 (1000)	950 (950)	950 (950)	1,485 (2000)	950 (950)	10.50 (25)	25 (50)
Adult Gaming Centre	1,000 (1000)	1,200 (1200)	1,200 (1200)	1,485 (2000)	1,200 (1200)	10.50 (25)	25 (25)
Temporary Use Notice	n/a	n/a	n/a	n/a	n/a	10.50 (25)	n/a

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.

Item No. 5 – Appendix B

**SEVENOAKS DISTRICT COUNCIL'S
GAMBLING ACT 2005 - FEES
1 April 2012 – 31 March 2013**

Premises Type	New Application £	Annual Fee £
Existing Casinos	n/a	n/a
New Small Casino	6875 (8,000) 6675	3810 (5000) 3700
New Large Casino	7915 (10,000) 7685	6155 (10000) 5975
Bingo Club	2520 (3500) 2445	705 (1000) 685
Betting Premises (excluding Tracks)	2520 (3000) 2445	475 (600) 460
Tracks	1530 (2500) 1485	705 (1000) 685
Family Entertainment Centres	1530 (2000) 1485	580 (750) 565
Adult Gaming Centre	1530 (2000) 1485	705 (750) 685
Temporary Use Notice	200 (500) 195	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	3265 (4000) 3170	1450 (1800) 1405	1450 (1800) 1405	6920 (8000) 6715	2475 (3000) 2400	11 (25) 10.50	26 (50) 25
New Large Casino	3880 (5000) 3765	1835 (2150) 1780	1835 (2150) 1780	7920 (10000) 7690	3630 (5000) 3525	11 (25) 10.50	26 (50) 25
Bingo Club	1470 (1750) 1425	1,200 (1200) 1200	1,200 (1200) 1200	2520 (3500) 2445	1,200 (1200) 1200	11 (25) 10.50	26 (50) 25
Betting Premises (excluding tracks)	1450 (1500) 1405	1,200 (1200) 1200	1,200 (1200) 1200	1510 (3000) 1465	1,200 (1200) 1200	11 (25) 10.50	26 (50) 25
Tracks	1,250 (1250) 1250	950 (950) 950	950 (950) 950	1530 (2500) 1485	950 (950) 950	11 (25) 10.50	26 (50) 25
Family Entertainment Centres	1,000 (1000) 1000	950 (950) 950	950 (950) 950	1495 (2000) 1485	950 (950) 950	11 (25) 10.50	26 (50) 25
Adult Gaming Centre	1,000 (1000) 1000	1,200 (1200) 1200	1,200 (1200) 1200	1530 (2000) 1485	1,200 (1200) 1200	11 (25) 10.50	26 (50) 25

Item No. 5 – Appendix B

Temporary Use Notice	n/a	n/a	n/a	n/a	n/a	11 (25) <i>10.50</i>	n/a
-----------------------------	------------	------------	------------	------------	------------	-----------------------------------	------------

The proposes 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 current fees are shown in italic font.

LICENSING COMMITTEE – 1 FEBRUARY 2012

HACKNEY CARRIAGE AND PRIVATE HIRE LICENSING: LICENCE FEES 2011/2012

Report of the: Deputy Chief Executive & Community and Planning Services Director

Status: For Decision

Executive Summary:

This report considers the appropriate licence fees and associated costs of Hackney Carriage and Private Hire licensing for the 2012/13 financial year to ensure that the “Taxi Licensing” service remains self-financing, in accordance with the Council’s Service and Budget Plan.

This report supports the Key Aim of safe communities and effective management of Council Resources.

Portfolio Holder Cllr. Mrs. Bracken

Head of Service Head of Environmental and Operational Services – Mr. Richard Wilson

Recommendation: It be RESOLVED that:

From 1 April 2012 the list of fees and associated costs for licences in respect of hackney carriage drivers and vehicles and private hire drivers, vehicles and operators be varied as follows:

	Existing Fees	New Fees
Hackney Carriage Driver’s Licence		
On initial application	£154 for three years	£159 for three years
Criminal Records Bureau Search Fee	£44	£44
On renewal	£110 for three years	£115 for three years
Criminal Records Bureau Search Fee	£44	£44
Hackney Carriage Vehicle Licence	£272 for one year	£280 for one year

Private Hire Operator's Licence

On initial application	£284.5 for three years	£294 for three years
On renewal	£91 for three years	£94 for three years

Private Hire Driver's Licence

On initial application	£154 for three years	£159 for three years
Criminal Records Bureau Search Fee	£44	£44
On renewal	£110 for three years	£115 for three years
Criminal Records Bureau Search Fee	£44	£44

Private Hire Vehicle Licence	£272 for one year	£280 for one year
-------------------------------------	-------------------	-------------------

Additional Costs

Change of Hackney Carriage to Private Hire	£64	£66
Change from Private Hire to Hackney Carriage	£85	£88
Replace Vehicle Plate	£37	£23
Replace Identification Badge	£26	£8.70
Vehicle Re-test	£54.85	£54.85
Vehicle Partial Re-Test	Half the current MOT fee	Half the current MOT fee
Change of Ownership of Licensed Vehicle	£63	£65
Attempting "Knowledge Test" after two failures	£47 for each attempt	£48
Vehicle Tests –		Owner turning up without their insurance documents will be charged half

Item No. 6

the fee and the test
will not go ahead.

Copies of existing licences	£8.00 each	£8 each
Change of address details for a replacement licence or for change of name for vehicle/operator licence		£10.50
Change of name and address for a driver's badge		£20

Replacement Vehicles

If a licensed vehicle is replaced during the valid licence period then the cost of licensing the replacement vehicle will be £280. However if the vehicle is replaced within six months of the issue of the licence then the fee will be reduced by £100 in the first of those six months; £90 in the second; £80 in the third; £70 in the fourth; £60 in the fifth and £50 in the sixth month.

If a licensed vehicle is replaced temporarily for up to 2 months because of damage to it then the fee will be £99 to test and licence the replacement vehicle and a further £99 to test and re-licence the original vehicle.

Medical Fee for new and renewal driver licences for Hackney Carriage and Private Hire payable directly to The Cedars Surgery	£55 for three years	£55 for three years
		NB: Medical provider tender will be sent out during 2012

Background

1. This taxi licensing service is required to be self-financing and the proposed increases to fees will ensure this is maintained.
2. The licence fees and associated costs of "taxi" licensing are also increased in line with the 3% inflation rate in accordance with the Council's Service and Budget Plan.
3. Careful monitoring of income and expenditure has been carried out over the current financial year and the income from licence fees and associated costs, together with expenditure has been in accordance with the objectives laid out in the budget plan.
4. The Driving Standards Agency fee for its taxi driver test, which new applicants are required to take in accordance with the Council's Taxi Licensing Policy, is currently £79.66 payable (weekday fee) to the DSA by the applicant.
5. The Cedars Surgery at Swanley is the current approved Centre for medical examinations with respect to Driver Licence applications in accordance with

Item No. 6

the Taxi Licensing Policy with the fee payable by the applicant of £55. During 2012 the future provider of medical examinations is currently out for tender.

6. The fee for the Criminal Records Bureau Enhanced Search, at the present, remains the same as last year at £44.
7. The three costs mentioned in the two preceding paragraphs, which a new applicant has to pay, means, that in addition to the licence fee set by Members, a new applicant for a driver licence will have to pay, if the recommended licence fee increase is approved, a total of £337.66 from 1 April 2012 whilst an applicant for a renewal of a licence will pay a total of £201 from the same date.

	New applicant for driver licence	Renewal of a drivers licence
Application	£159.00	£115.00
CRB	£44.00	£44.00
Medical	£55.00	£55.00
DSA driving test	£79.66	Not applicable
Total	£337.66	£214.00

8. The Licensing team will write to all Hackney Carriage Proprietors, Private Hire Operators, and all Drivers after this Licensing Committee meeting to give all parties the opportunity to make comment.

Key ImplicationsFinancial

9. The cost of licence fees takes into account the need to maintain a “self financing” position for the service. The proposals contained in this report will achieve this.

Legal, Human Rights etc.

10. Should parts of industry believe the authority’s fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake judicial review proceedings. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.

Equality

11. Hackney Carriages and Private Hire vehicles are available to all groups within the community.

RISK ASSESSMENT STATEMENT

12. If the proposed licence fee increases are not agreed, as proposed, then financial support to the Taxi Licensing Service will have to be borne from within the Council's budgets.

Licensing Committee minutes 26.1.2011

Sources of Information:

Local Government (Miscellaneous) Provisions Act 1976.

Taxi Licensing Policy

Contact Officer(s):

Anthony Garnett Ext. 7339

Claire Perry Ext. 7325

**DEPUTY CHIEF EXECUTIVE & COMMUNITY AND PLANNING SERVICES
DIRECTOR
KRISTEN PATERSON**

