

**NORTH LINCOLNSHIRE COUNCIL**

**LICENSING COMMITTEE**

**SEX ESTABLISHMENT LICENSING FEES &  
PROVISIONS OF SERVICE REGULATIONS 2009**

**1. OBJECT AND KEY POINTS IN THIS REPORT**

- 1.1 To review the licence fee for sex establishment licensing in light of the current legislation and case law.
- 1.2 To refer the changes in licences fees following the review to the licensing committee for determination.

**2. BACKGROUND INFORMATION**

- 2.1 The Licensing function is a statutory service delivered in accordance with various Acts of parliament. The legislation governing sex establishments is the Local Government (Miscellaneous Provisions) Act 1982.
- 2.2 When setting the fees for licensable activities, the Provisions of Service Regulations 2009 must be taken into account. In determining the fees, the council cannot
  - budget to make a profit or surplus;
  - use income from one type of licence to subsidise another type of licence;
  - charge more than it costs to process an application; but
  - may set fees to attain full cost recovery.
- 2.3 In accordance with the legislation, the Provisions of Service Regulation 2009 and the relevant case law, the cost of administering and processing each application for a sex establishment licence has been considered. The Council has received a letter from a licence holder requesting that the fees be reviewed to ensure that they are set in accordance with the aforementioned legislation.
- 2.4 The proposed fees are based on the time each application takes to process and the cost of the licensing function. The revised fees following the review are attached as Appendix A. The review of the

fees will allow the fees and charges to be robustly defended against any legal challenge.

2.5 Should the revised fees be agreed, then there would be a reduction in income of £1200 from the licensing function.

2.6 If the council does not comply with the legislation and regulations, then it would be open to a legal challenge, which would have serious implications both financially and for the Councils reputation.

2.7 Should the proposed fees be agreed, then the Council will be compliant with current legislation and case law and will make any review of licence fees in the future to be easier.

### **3. OPTIONS FOR CONSIDERATION**

3.1 Option 1 – To do nothing. Maintain the fees as they are now and accept the risk that the Council could be challenged.

3.2 Option 2 – To adopt the proposed fees in Appendix A, which are based on the cost of processing the application, based on the appropriate case law.

### **4. ANALYSIS OF OPTIONS**

4.1 Option 1 – To do nothing would not address the issues arising from the report and would leave the Council open to legal challenge.

4.3 Option 2 – The preferred option, would ensure that the Council are setting fees in accordance with the Provisions of Service Regulations 2009 and the relevant case law. Option 2 would ensure that the council is in a position to defend the fees should they be challenged.

### **5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)**

5.1 Adopting the fees in Appendix A would result in a reduction of income of £1200.

### **6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)**

6.1 Reviewing the fees would ensure that the Council is compliant with the Provisions of Service Regulations 2009.

### **7. OUTCOMES OF CONSULTATION**

7.1 Legal Services have been consulted on the report to ensure that it is compliant with the aforementioned regulations.

7.2 A copy of the report has been forwarded to the Cabinet Member for Neighbourhood and Environment for comment.

## 8. **RECOMMENDATIONS**

8.1 That fees set in accordance with Option 2, and as detailed in Appendix A be approved.

8.2 That the income budget be reviewed to ensure targets are in line with expected levels and not in excess of anticipated cost.

### DIRECTOR OF PLACES

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**Background Papers used in the preparation of this report – Fees and Charges working papers**

## Appendix A

<b>Legislation</b>	<b>Application Type</b>	<b>Statutory Fee Yes/No</b>	<b>Current Licence Fee</b>	<b>Proposed Fee</b>
LG(M)P Act 1982	Sex Establishment Licence (Grant)	No	£5,425.00	£3,975
LG(M)P Act 1982	Sex Establishment Licence (Renewal)	No	£3,620.00	£2,400
LG(M)P Act 1982	Sex Establishment Licence (Transfer)	No	£1,775.50	£1,570
LG(M)P Act 1982	Sex Establishment Licence (Variation)	No	£1,775.50	£1,770