

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

29 November 2023

Report of the Director of Central Services and Deputy Chief Executive

Part 1- Public

Delegated

1 REVIEW OF FEES AND CHARGES 2024/25 - LICENSING FEES

1.1 Executive Summary

- 1.1.1 The responsibility for setting the licensing fees and charges for 2024/25 is with the Licensing & Appeals Committee.
- 1.1.2 The review has been carried out by the Head of Service for Licensing, Customer Services and Community Safety and the report sets out the recommended changes to the existing fee structure.
- 1.1.3 The licensing regimes listed within this document cover a wide range of activities and services ranging from the sale and supply of alcohol to individuals keeping dangerous wild animals. The purpose of the licensing regimes are specific to the regulation that govern it but in general, licensing is required to protect the public, protect and support businesses practices and ensure fair trading; and ensure the welfare of animals.
- 1.1.4 The council has the power to set some fees for certain licensing regimes. However, a number of licensing regimes have fees that have been set by the specific Act or associated regulations. There are three fee regime types that have been set out within this document. These fee regime types relate to how the fees have been set.

Type 1	Type 2	Type 3
Fees that are set by statute for which the council has no power to amend.	A maximum fee cap set by statute that permits councils to set a reasonable fee to recover its costs up to that cap.	The relevant statute permits councils to set their own local fees that will enable it to recover its reasonable costs.
Example <ul style="list-style-type: none">• Licensing Act 2003• Lotteries	Example <ul style="list-style-type: none">• Gambling Act 2005	Example <ul style="list-style-type: none">• Taxi and Private Hire• Scrap Metal

- 1.1.5 All of the fees within type 2 up to the relevant cap and all of the fees within type 3 fee regimes have been set to recover the council's reasonable costs in carrying out its functions for each specific regime. The fees relate to that regime only and all the income received from fees is used to offset those costs. The council cannot and does not use the income from one specific licensing regime to cover deficits in other regimes.
- 1.1.6 The council will aim to undertake a review of type 2 and 3 licensing fee regimes every year. When considering the fees the council will take into account the costs that it has incurred from the previous year and set a fee based on those costs. If the council does, in reviewing the fees identify a surplus or a deficit it will adjust the fees accordingly to either reduce the fee levels to reduce the surplus or increase the fee levels to repay that deficit in costs from previous years. This means that the fees will fluctuate year on year based on the review of income and cost associated with that relevant licensing regime.
- 1.1.7 The principal area covered by Type 3 above is that relating to Hackney Carriage and Private Hire licensing. Further detail in respect of this area is set out below

European Service Directive

- 1.1.8 The European Union Services Directive -2006/123/EC (the Directive) was given effect in UK law via the Provision of Services Regulations 2009 (SI2009/2999). This Directive and the Regulations contain provisions about the fees which may be charged under relevant licensing regimes within the scope of the Directive. In particular licensing authorities may not set fees that are dissuasive, and any fees must be reasonable and proportionate to the cost of the licensing process and the issuing of the licence.
- 1.1.9 These provisions have been taken into account in setting the fees set out in this document.
- 1.1.10 In addition, a judgment of the Supreme Court in a case involving Westminster City Council has provided further clarification of the type of costs which may be taken into account when setting fees, and when fees may be payable. Pending further guidance from the European Court of Justice, the judgment of the Supreme Court established that a licensing regime may operate on the basis that an applicant must pay:
- i. on making the application, the costs of the application process and,
 - ii. on the application being successful, a further fee to cover the costs of the running and enforcement of the licensing regime.
- 1.1.11 The council has, following this decision, reviewed the Type 3 regime fees, for which the Directive relates so that they identify the costs for processing the application through to determination (Part A) and the cost for running and the enforcement of the licensing regime (Part B).
- 1.1.12 Taxi Licensing is exempt from this ruling.

1.2 Summary of Numbers of licences

1.2.1 The table below shows the tracking of the number of licences Tonbridge & Malling Borough Council is responsible for validating, processing and issuing.

	26.09.23	10.11.22	04.10.21	20.04.21	18.12.19	05.09.19	31.05.19
Scrap Metal - Site licence	2	3	2	2	3	2	2
Scrap Metal – Mobile licence	7	8	7	6	7	7	6
Lottery Licences	70	69	64	60	75	75	73
Hackney Carriage Vehicles	167	144	137		179	182	
Hackney Carriage Drivers	64	62	70		99	106	
Hackney Carriage Prob Driv	0	0	0		0	0	
Dual Driver badges	184	164	167		178	175	
Private Hire Operator	102	111	116		105	102	
Private Hire Vehicles*	398	361	346		477	477	
Private Hire Drivers	367	376	391		456	448	
Private Hire Prob Drivers*	0	0	0		0	0	
Private Hire Prob Vehicles	0	0	0		0	0	
Total taxi licences	1,282	1,218	1,227		1,494	1,490	
Number of Drivers	615	602	628		733	729	
Adult Gaming Centres	1	1	1	1	1	1	1
Betting Shops	8	8	8	8	8	10	10
Boatman Licence	8	4	4	4	5	4	4
Club Premises Licence	28	28	29	29	29	29	29
Premises Licences	375	370	370	360	352		363
Dangerous Wild Animals	1	1	1	1	1	1	1
Hypnotism Licence	0	0	0	0	0	0	0
Street Traders Licence	0	0	0	0	1	1	1
Personal Licences	1,806	1,767	1,747	1,817	1,750	1,737	1,718
Sex Shop	1	1	1	1	1	1	1
Animal Boarding**							
Home Boarding**							
Pet Shop **							
Animal Activity	47	39	36	33	26		27
Riding Establishments							
Zoo licensing	1	1	1	1	1	1	1
Total	3,637	3,518	3,498	3,568	3,780	3,763	3,712

Licensing Act 2003

1.2.2 The fees are set by Government, where there has been no change to fees since 2005 when Act came into force.

1.2.3 This table shows the number of premises by “type”

“Type”	Number	“Type”	Number
Brewery	5	Hotel	7
café / coffee shop	13	Internet	16
Campsite	2	Leisure Centre	4
Cash and Carry	1	Market	1
Church	4	off licence	11
Cinema	0	Petrol station	13
Club	18	Pub	73
Community Hall	26	Restaurant	58
Conference	8	Schools	7
Convenience	39	Sports Club	27
Dance Studio	1	Supermarket	33
Day Care Centre	1	Takeaways	10
Department Store	3	Theatre	1
Flower Shop	1	Tourist attraction	3
Garden Centre	0	Vineyard	3
Golf Club	5	Wedding	5
Hall	3		
High street	1	Total	399

1.2.4 This table shows the last published Home Office return for year 2021-22 for the Kent Authorities.

	Premises licences	Club premises	Total
Ashford			
Canterbury	836	29	
Dartford	319	40	
Dover	378	45	
Gravesham	296	31	
Maidstone	458	34	
Sevenoaks	387	45	
Shepway	411	51	
Swale	533	33	
Thanet	545	41	
TMBC	314	31	
TWBC	398	32	

Annual fee income

In general terms, the amount a premises licence holder pays in Annual fees depends on their rateable value, with additional payment when a premises capacity is significantly increased, or when in a town centre they have “multiplier status”.

The vast majority of TMBC Annual fees are due in November of each year – As the Annual fee has to be paid on the anniversary of the grant of the licence.

Category Level and amount	Number of premises	Number of Club premises certificates	Total premises in Category	Total income “£”
“A” - £70	56	9	47	£3,920
“B” - £180	212	16	196	£38,160
“C” - £295	55	3	52	£16,225
“D” - £320	15	0	15	£4,800
“E” - £350	41	0	41	£14,350
Number of premises with no annual fee*	24	0	24	£0,00
Sub total	403	28	375	
Additional Fee for Hop Farm Event licence				£8,000
Additional Fee for Humphrey Bean				£320
Total	403	28	375	£85,775

- - A premises has no annual fee to pay where there is no sale of alcohol

Numbers of Taxi and Private Hire tracking Drivers

	Before Lockdown	First Lockdown begins	Pubs reopen	Eat out to help out	10pm curfew for Pubs / Hotel etc.	Three-tier system	Second lockdown begins	Second lockdown ends - New three tiers	New Tier 4 comes into force for South East	Third lockdown begins	Roadmap Step 1	Roadmap Step 2	Roadmap Step 3		Step 4	
	18 Dec 19	26 Mar 20	4 Jul 20	3 Aug 20	22 Sep 20	14 Oct 20	5 Nov 20	2 Dec 20	21 Dec 20	6 Jan 21	8 Mar 21	12 Apr 21	17 May 21	14 Jun 21	19 Jul 21	04 Sep 21
HDL	99	95	84	85	85	83	84	81	81	81	79	78	79	76	77	70
Dual	178	178	176	172	167	167	165	164	163	165	166	165	163	164	167	167
PHDL	456	436	428	426	424	425	422	414	409	407	404	402	400	387	387	391
Total	733	709	688	683	676	675	671	659	653	653	649	645	642	627	631	628
Difference between key milestones		-24	-21	-5	-7	-1	-4	-12	-6	0	-4	-4	-3	-15	4	-3
Difference before lockdown		-24	-45	-50	-57	-58	-62	-74	-80	-80	-84	-88	-91	-106	-102	-105

Vehicles

	Before Lockdown	First Lockdown begins	Pubs reopen	Eat out to help out	10pm curfew for Pubs / Hotel etc.	Three-tier system	Second lockdown begins	Second lockdown ends - New three tiers	New Tier 4 comes into force for South East	Third lockdown begins	Roadmap Step 1	Roadmap Step 2	Roadmap Step 3		Step 4	
	18 Dec 19	26 Mar 20	4 Jul 20	3 Aug 20	22 Sep 20	14 Oct 20	5 Nov 20	2 Dec 20	21 Dec 20	6 Jan 21	8 Mar 21	12 Apr 21	17 May 21	14 Jun 21	19 Jul 21	04 Oct 21
HCV	179	179	149	152	159	159	150	149	151	149	149	140	140	140	141	137
PHV	477	425	379	389	385	389	386	366	377	375	355	347	342	359	359	346
Total	656	604	528	541	544	548	536	515	528	524	504	487	482	499	500	483
Difference between key milestones		-52	-76	13	3	4	-12	-21	13	-4	-20	-17	-5	17	1	-13
Difference before lockdown		-52	-128	-115	-112	-108	-120	-141	-128	-132	-152	-169	-174	-157	-156	-173

Drivers

	31 Mar 23	13 Apr 23	20 Apr 23	9 May 23	30 Jun 23	13 Jul 23	25 Aug 23	26 Sep 23							
HDL	61	64	63	63	54	65	64	64							
Dual	172	170	172	174	180	182	186	184							
PHDL	363	361	359	365	367	366	369	367							
Total	596	595	594	602	601	613	619	615							
Difference between key milestones	-2	-1	-1	+8	-1	+12	+6	-4							
Difference before lockdown	-137	-138	-139	-131	-132	-120	-114	-118							

Vehicles

	31 Mar 23	13 Apr 23	20 Apr 23	9 May 23	30 Jun 23	13 Jul 23	25 Aug 23	26 Sep 23							
HCV	148	149	146	145	161	165	175	167							
PHV	390	394	401	396	397	404	419	398							
Total	538	543	547	541	558	569	594	565							
Difference between key milestones	+15	+5	+4	-6	+17	+11	+25	-29							
Difference before lockdown	-118	-113	-109	-115	-98	-87	-62	-91							

Department of Transport statistics – 31 March 2022

	Hackney Carriage				Private Hire					Dual drivers		Total drivers licences issued	Total licensed Vehicles
	Wheelchair Accessible taxis	Other taxis	Total taxis	Taxi only licensed drivers	Wheelchair Accessible taxis	Other PHVs	Total PHVs	Operator licences issued	PHV only licenced Drivers	Dual taxi/PHV driver licences	Both taxi and PHV driver licences		
Ashford	19	78	97	0	0	132	132	79	159	141	0	300	229
Canterbury	25	218	243	112	57	529	586	128	619	178	0	909	829
Dartford	56	0	56	42	10	50	60	22	76	38	0	156	116
Dover	0	69	69	0	5	101	106	33	5	224	0	229	175
Gravesham	31	94	125	0	3	47	50	39	43	140	0	183	175
Maidstone	48	0	48	8	2	191	193	28	234	76	0	318	241
Sevenoaks	5	141	146	127	18	85	103	35	87	79	0	293	249
Shepway	14	199	213	27	8	84	92	45	91	219	0	337	305
Swale	31	138	169	0	12	29	41	32	2	298	0	300	210
Thanet	2	76	78	97	25	363	388	42	390	0	8	495	466
TMBC	3	145	148	61	18	372	390	103	363	172	0	596	538
TWBC	22	85	107	0	10	129	139	51	0	269	0	269	246

1.3 Hackney Carriage & Private Hire

- 1.3.1 Fee levels for hackney carriage and private hire licensing are subject to various statutory controls. Whilst these controls provide the Council with some discretion as to the level of fee, the cost of a licence must be related to the overall cost of the licensing scheme itself.
- 1.3.2 Section 53 of the Local Government (Miscellaneous Provisions) Act 1976 provides that, in respect of hackney carriage and private hire drivers, the Council may charge 'such a fee as they consider reasonable with a view to recovering the costs of issue and administration'. No fee is chargeable, or recoverable, in respect of enforcement in relation to these licences.
- 1.3.3 For vehicle (both hackney carriage and private hire) and private hire operators' licences, fee levels are governed by s.70 of the 1976 Act. This section allows the Council to charge such fees as may be sufficient in aggregate to cover in whole or in part –
- the reasonable cost of carrying out inspections of hackney carriages/ private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;
 - the reasonable cost of providing hackney carriage stands; and
 - any other reasonable administrative or other costs in connection with the above and with the control and supervision of hackney carriage and private hire vehicles.

Costs for plates, holders and door insignia

- 1.3.4 The costs for plates, holders and door insignia are not set by the Licensing and Appeals Committee.
- 1.3.5 The costs shown are the current manufacturer's costs and are subject to change anytime during the year, without reference to the Licensing and Appeals Committee.
- 1.3.6 A table showing the existing and proposed fees for 2024-25 is shown as **Annex 1**.

Fee model

- 1.3.7 The fee model sheets for the main Taxi fee increase show officer cost and time in the validating, processing, issuing and enforcement cost where applicable. Sample sheets are shown as **Annex 2**.

1.4 Legal Implications

- 1.4.1 As set out above.

1.5 Financial and Value for Money Considerations

1.5.1 As set out above.

1.6 Risk Assessment

1.6.1 The recommended fee levels have been calculated in order to ensure that the service remains self-financing, whilst at the same time not making a profit.

1.7 Equality Impact Assessment

1.7.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.8 Recommendations

1.8.1 It is RECOMMENDED that the proposed scale of fees for licences, consents and registrations set out in Annex 1 of this report be adopted with effect from the 1 April 2024.

Background papers:

Department of Transport statistics
Home Office statistics

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