

Licensing and Appeals Committee

27 November 2024

Part 1 - Public

Matters Taken Under Delegated Powers



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Review

Cabinet Member

Cllr Des Keers, Community Services

Responsible Officer

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Report Author

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Review of Licensing Fees and Charges 2025/26

1 Summary and Purpose of Report

- 1.1 The responsibility for setting the licensing fees and charges for 2025/26 is with the Licensing & Appeals Committee. This report gives details of the proposed Licensing fees and charges for 2025/26.

2 Corporate Strategy Priority Area

- 2.1 Efficient services for all our residents, maintaining an effective council.
- 2.2 Licensing Services ensure that all licensable activities taking place within the borough are granted the appropriate permissions under the relevant legislation.

3 Recommendations

- 3.1 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 2025.

4 Introduction and Background

- 4.1 The review has been conducted 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.
- 4.2 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.

- 4.3 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

- 4.4 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.
- 4.5 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 consider 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.
- 4.6 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

- 4.7 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.
- 4.8 These provisions have been considered in setting the fees set out in this document.
- 4.9 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 considered 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.
- 4.10 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).
- 4.11 Taxi Licensing is exempt from this ruling.

5 Summary of Numbers of Licences

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

	13/11/24	26.09.23	10.11.22	04.10.21	20.04.21	18.12.19	05.09.19
Scrap Metal - Site licence	2	2	3	2	2	3	2
Scrap Metal – Mobile licence	5	7	8	7	6	7	7
Lottery Licences	55	70	69	64	60	75	75
Hackney Carriage Vehicles	172	167	144	137		179	182
Hackney Carriage Drivers	56	64	62	70		99	106
Dual Driver badges	219	184	164	167		178	175
Private Hire Operator		102	111	116		105	102

	13/11/24	26.09.23	10.11.22	04.10.21	20.04.21	18.12.19	05.09.19
Private Hire Vehicles*	380	398	361	346		477	477
Private Hire Drivers	354	367	376	391		456	448
Total taxi licences	1,181	1,282	1,218	1,227		1,494	1,490
Number of Drivers	629	615	602	628		733	729
Adult Gaming Centres	1	1	1	1	1	1	1
Betting Shops	8	8	8	8	8	8	10
Boatman Licence	8	8	4	4	4	5	4
Club Premises Licence	28	28	28	29	29	29	29
Premises Licences	375	375	370	370	360	352	
Dangerous Wild Animals	2	1	1	1	1	1	1
Hypnotism Licence	0	0	0	0	0	0	0
Street Traders Licence	0	0	0	0	0	1	1
Personal Licences	1818	1,806	1,767	1,747	1,817	1,750	1,737
Sex Shop	1	1	1	1	1	1	1
Animal Boarding**							
Home Boarding**							
Pet Shop **							
Animal Activity	37	38	39	36	33	26	
Riding Establishments							
Zoo licensing	1	1	1	1	1	1	1
Total	3,522	3,628	3,518	3,498	3,568	3,780	3,763

Licensing Act 2003

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

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

“Type”	Number
Brewery	5
café / coffee shop	13
Campsite	2
Cash and Carry	1
Church	5
Cinema	0
Club	18
Community Hall	26

“Type”	Number
Hotel	7
Internet	13
Leisure Centre	4
Market	1
off licence	10
Petrol station	13
Pub	73
Restaurant	58

Conference	8
Convenience	41
Dance Studio	1
Day Care Centre	1
Department Store	3
Flower Shop	1
Garden Centre	0
Golf Club	5
Hall	3
High street	1

Schools	7
Sports Club	27
Supermarket	33
Takeaways	10
Theatre	1
Tourist attraction	3
Vineyard	3
Wedding	5
Total	403

5.4 This table shows the last published Home Office return for year 2023-24 for the Kent Authorities.

	Premises licences	Club premises
Ashford	453	22
Canterbury	836	29
Dartford	337	24
Dover	409	30
Folkestone & Hythe	460	33
Gravesham	331	29
Maidstone	552	29
Sevenoaks	420	38
Swale	439	23
Thanet	640	34
Tonbridge and Malling	375	28
Tunbridge Wells	453	32

Taxi number tracking

5.5 Tables showing the number of taxis at Tonbridge and Malling Borough Council and other Local Authorities in Kent are show at **Annex 3**.

Annual fee income

- 5.6 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 in significantly increased, or when in a town centre they have “multiplier status.”
- 5.7 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	55	9	46	£3,850
"B" - £180	214	16	198	£38,520
"C" - £295	54	3	51	£15,930
"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	77,450
Additional Fee for Hop Farm Event licence				£8,000
Additional Fee for Humphrey Bean				£640
Total	403	28	375	£86,090

6 Hackney Carriage & Private Hire

- 6.1 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.
- 6.2 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.
- 6.3 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 conducting 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

- 6.4 The costs for plates, holders and door insignia are not set by the Licensing and Appeals Committee.
- 6.5 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.
- 6.6 A table showing the existing and proposed fees for 2025-26 is shown as **Annex 1**.

Fee model

- 6.7 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**.

7 Proposal

- 7.1 The proposed scale of fees for licences, consents and registrations set out in **Annex 1** of this report.

8 Financial and Value for Money Considerations

- 8.1 As set out above.

9 Risk Assessment

- 9.1 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.

10 Legal Implications

- 10.1 As set out above

11 Consultation and Communications

- 11.1 As set out above, the agreed taxi fee increases will have to be published for taxi stakeholders to make comment or objection. If any objection is made, these will be considered at the next Licensing and Appeals Committee meeting scheduled for the 25 March 2025.

12 Implementation

- 12.1 Agreed fee increase will take effect from the 1 April 2025

13 Cross Cutting Issues

13.1 Following corporate guidelines for all of the charges included in this report has ensured a standard approach across different services

14 Climate Change and Biodiversity

14.1 A moderate source of emissions is likely to be maintained at current levels or increased.

14.2 The Taxi and Private Hire vehicle fleet is continually being renewed as older vehicles can not be licenced after the age of ten years.

15 Equalities and Diversity

15.1 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.

16 Other If Relevant

16.1 None

Background Papers	Department of Transport statistics Home Office statistics
Annexes	Annex 1 – Proposed fees and charges for 2025/26 Annex 2 – Example of fee model calculation that is used to model fees Annex 3 – Taxi Numbers for TMBC and other Local Authorities in Kent