

EXECUTIVE COUNCIL

PUBLIC

Title: Review of Fees Charged for Applications made under the Licensing Ordinance

Paper Number: 111/18

Date: 25th July 2018

Responsible Director: Director of Development and Commercial Services

Report Author: Head of Courts and Tribunals Service

Portfolio Holder: Dr Barry Elsby

Reason for paper: This paper is submitted to Executive Council:
For policy decision
For policy update/information

Publication: Yes

Previous papers: 74/15

List of Documents: Appendix A : Schedule of Proposed New Fees
Appendix B: Licensing Ordinance (Amendment of Fees) Order 2018

1. Recommendations

Honourable Members are recommended to approve:

Amendments to fees charged in respect of applications made under the Licensing Ordinance, as set out in the Schedule to this paper (Appendix B) – Option 5.1(iii).

2. Additional Budgetary Implications

	2018/19	Annual Recurring
Lost Revenue	£4900	£4900

3. Executive Summary

- 3.1. The decision was made to review the fees charged by the court in respect of applications made under the Licensing Ordinance following feedback received from licensees and a review of the appropriateness of the current fees in light of the ‘user pays’ principle.

- 3.2 It is requested that Executive Council consider approving a revised set of fees to include the following:
- (i) Retaining the current fees in respect of certain matters where analysis has shown that the fee is broadly correct in terms of the ‘user pays’ principle;
 - (ii) Decreasing the fees charged in respect of certain matters where analysis has shown that the current fee is excessive in terms of the ‘user pays’ principle; and
 - (iii) Introducing a fee to be charged at the point of an application being made to transfer a licence in order to bring such applications in line with applications for the grant of new licences.
- 3.3 Following feedback from a number of stakeholders, consideration was given by officers to the potential for either reducing or remitting fees charged under the Ordinance in respect of ‘charitable’ events. Whilst such a proposal has clear merit, it is felt that it cannot be recommended due to the difficulty of ascertaining what amounts to a ‘charitable’ event and the potential for abuse without careful management, which would add to the cost of operating the system and thus lead to an increase in fees charged to other users.
- 3.4 In terms of resources, if the paper is approved no additional human resource will be required as the administration of fees charged will remain identical to the position at present. It is calculated that the revenue produced by the current fees regime will reduce to a small extent. This will not require any additional funding to be provided, as the courts do not hypothecate any monies received.

4. Background and Links to Islands Plan

- 4.1 The fees currently charged have been in place since 2016 and resulted from a root-and-branch review of all court fees (see paper 74/15).
- 4.2 The fees proposed (and adopted) in paper 74/15 were calculated on a ‘user-pays’ basis at the time of the preparation of the paper. At the time, there had been recent concern regarding the administration of the Licensing Ordinance and a thorough review had been undertaken as part of the implementation of the Ministry of Justice review of the Courts and Tribunals service. The immediate result was that a number of new procedures were put in place to ensure that the Ordinance was correctly administered and considerable staff time and effort was being expended in ensuring that applications were correctly dealt with.
- 4.3 There has now been an extensive period of bedding-in for the procedures introduced at the time and the staff time spent on applications under the Ordinance is considerably reduced in respect of certain matters.
- 4.4 The Islands Plan provides for encouraging economic development by creating conditions for growth and investment in the economy. Ensuring that fees charged are

no more than required will assist with this aim through allowing funds to remain with businesses and individuals to be invested as they see fit.

5. Options and Reasons for Recommending Relevant Option

5.1 A number of possible options have been considered, namely:

- (i) **Do Nothing** – there is no indication that the fees currently charged disincentivise applications under the Ordinance. However, it is clear that the fees charged do not accurately reflect the amount of work undertaken and, if the ‘user pays’ principle is to remain a credible model for the assessment of fees, reduction should occur where it is clearly necessary.
- (ii) **Increase fees at a rate commensurate with inflation** – this again would not accurately reflect the amount of work now undertaken by court staff in dealing with application under the Licensing Ordinance, and would undermine the credibility of the ‘user pays’ model.
- (iii) **Reduce certain fees to be commensurate with the work actually undertaken** – this option will retain the credibility of the ‘user pays’ model whilst ensuring that the court receives revenue that is commensurate with the staff time and costs incurred in dealing with applications under the Licensing Ordinance. The proposed scale of new fees, and a summary of the methodology used in setting the fees, is appended to this paper.

5.2 Option (iii) is the officer’s recommended option.

6. Resource Implications

6.1. Financial Implications

The proposal contained in this paper is to reduce certain fees. Should this proposal be accepted, a draft regulation has been produced by the Law and Regulation Directorate and is appended to this paper.

Following consideration of revenue in respect of licensing fees over the twelve months period from February 2017 to January 2018, it is anticipated that introduction of the proposed new scale of fees would result in a revenue reduction of approximately £4900 per annum. This will not impact directly upon the courts’ budgetary requirements, as the court does not, as a matter of policy, hypothecate any income received to fund court services.

6.2. Human Resource Implications

None.

6.3. Other Resource Implications

None.

7. Legislative Proposal

- 7.1 The proposed amended fees are set out in the Schedule to this paper, together with a draft of proposed regulations implementing the amended fees.

8. Environmental & Sustainability Implications

None.

9. Significant Risks

- 9.1 Failing to amend the fees charged in respect of applications under the Licensing Ordinance risks the credibility of the ‘user pays’ approach to fee-setting being undermined. This being the approach utilised to fix other fees charged by the court, there is a risk that criticism is received by the court regarding the level of other fees charged, potentially leading to unnecessary expenditure of officer time in justifying the level of such fees.

10. Consultation

- 10.1 A number of current licence holders, and individuals who habitually make applications for occasional licences, have been consulted regarding the current level of fees charged. All supported a review of the current fees being undertaken.

11. Communication

- 11.1 Should the revised scale of fees be approved, the new fees would be published on the courts’ website and communicated to all current licence holders by way of letter.

Appendix A

Schedule of Proposed New Fees

Nature of fee charged	Current fee	Proposed new fee (after 'user pays' review)
On the application for a grant of a new justices' licence	£100	£70 (and to make the fee payable on the application for a transfer of a justices' licence, for which no fee is currently payable)
On the grant (including the grant on transfer) or renewal of a justices' on-licence, other than a Part V licence or an occasional licence	£235	£100
On the grant (including the grant on transfer) of a justices' off-licence	£235	£100
On an application for a protection order	£50	No change
On the grant of an application for a protection order	£60	No change
On inspection of the register of licences pursuant to section 25(1)	£10	No change
On an application for a special hours certificate	£20	£70
On the grant of a special hours certificate	£150	£100
On application for a club registration certificate	Nil	No change
On grant of a club registration certificate	£80	No change
On application for a children's certificate	Nil	No change
On grant of a children's certificate	£50	No change
On application for a camp exemption order	Nil	No change
On grant of a camp exemption order	£20	No change
On application for an extension of permitted hours	£20	No change
On the grant of an extension of permitted hours, for every hour or part thereof to which the extension relates	£15	No change
On application for an occasional licence	£20	No change
On the grant of an occasional licence, for every day or part thereof to which the licence relates	£35 per day up to a maximum of £100	£25 per day up to a maximum of £70

On application for a prohibition order	Nil	No change
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SUBSIDIARY LEGISLATION

LICENSING ORDINANCE

Licensing Ordinance (Amendment of Fees) Order 2018

S. R. & O. No: of 2018

Made: 2018

Published: 2018

Coming into force: upon publication

I make the following order under section 20(2) of the Licensing Ordinance 1994 on the advice of Executive Council.

1. Title

This Order is the Licensing Ordinance (Amendment of Fees) Order 2018.

2. Commencement

This Order comes into force on publication in the Gazette.

3. Schedule 3 of Licensing Ordinance replaced

Schedule 3 to the Licensing Ordinance 1994 is deleted and replaced with the following —

**“SCHEDULE 3
COURT FEES PAYABLE IN CONNECTION WITH JUSTICES' LICENCES**

1. On the application for the grant of a new justices' licence (and for an application for a transfer of a justices' licence)	£70.00
2. On the grant (including a grant on transfer) or renewal of a justices' on-licence, other than a Part V licence or an occasional licence	£100.00
3. On the grant (including a grant on transfer) or renewal of a Part V licence	£100.00
4. On the grant (including a grant on transfer) or renewal of a justices' off-licence	£100.00
5. On an application for a protection order	£50.00
6. On the grant of an application for a protection order	£60.00
7. On inspection of the register of licences pursuant to section 25(1)	£10.00
8. On an application for a special hours certificate	£70.00
9. On the grant of a special hours certificate	£100.00
10. On application for a club registration certificate	Nil
11. On the grant or renewal of a club registration certificate	£80.00
12. On application for a children's certificate	Nil
13. On grant of a children's certificate	£50.00
14. On application for a Camp exemption order	Nil
15. On grant of a Camp exemption order	£20.00
16. On application for an extension of permitted hours	£20.00
17. On the grant of an extension of permitted hours (for every hour or part thereof to which the extension relates)	£15.00
18. On application for an occasional licence	£20.00
19. On the grant of an occasional licence (for every day or part thereof to which the occasional licence relates)	£25.00 (up to a maximum of £70.00 per licence)
20. On application for a prohibition order	Nil”

Made

2018

N. J. Phillips C.B.E.,
Governor

EXPLANATORY NOTE
(not part of the order)

This Order amends the Licensing Ordinance 1994 so as to revoke and replace Schedule 3. Schedule 3 provides for court fees payable in connection with Justices' licences. Section 20(2) empowers the Governor to amend the Schedule by order. The revised fees are intended to reflect the "user pays" principle which is the basis for calculating other court fees.