

East Herts Council Non-Key Decision Report

Date: 5 September 2022

Report by: Councillor Jan Goodeve – Executive Member
for Planning and Growth

Report title: Minor amendments to the 2022-23 fees and
charges

Ward(s) affected: All

Summary

- On the 1st March 2022 a meeting took place where the fees and charges for 2022-23 were approved by Council.
- There were some errors in the report put before Members which have resulted in some of the fees and charges detailed in the report being inaccurate.
- This report is to seek approval for minor amendments to the fees and charges for 2022-23 so that they accurately reflect what should be in place.
- Section 4, paragraph 4.26.3(d) of the Constitution delegates minor in year changes to fees and charges to the portfolio holder.

RECOMMENDATIONS FOR DECISION: That:

A. The amended schedule of Fees and Charges, as included at Appendix B, be approved.

1.0 Proposal(s)

1.1 That the revised fees and charges should be approved and

come into effect as soon as possible.

2.0 Background

2.1 Fees and charges for each financial year are approved at a Council meeting prior to that financial year commencing.

2.2 It has been noted that there are some minor errors in the approved fees and charges for 2022-23.

2.3 These mainly relate to statutory fees, or those requiring consultation, being increased beyond the maximum allowed or without following the statutory process.

2.4 **Appendix A** of this report shows the approved schedule of fees and charges for Housing and Health and Markets (which now sits within the service under Street Trading).

2.5 The fees and charges that require amendment are highlighted in blue or red. The fees in Blue should remain but require amendment whilst Red indicates that the fee or charge is no longer used so should be discontinued.

2.6 The areas to be amended are:

- Street trading fees (including markets)
- Taxi fees
- Gambling fees

2.7 The proposed amendments to the 2022-23 fees and charges are shown in **Appendix B** with a more detailed explanation for the reasoning in the paragraphs to follow.

2.8 Street trading fee proposals:

- Discontinue 'Street Trading: Annual' as this fee has not previously been charged and does not relate to any of the current consents we issue.
- Amend the fees for transfer and variation of street trading consents to reflect full cost recovery.
- Add two new fee descriptions for clarity: 'Street Trading: Enhanced (Commercial Markets)' and 'Street Trading: Enhanced (Farmers Market)'. The fee for these applications is the same as the 'Street Trading: Static' fee which is what is currently charged for these applications.
- Add a new fee 'Additional stall (Farmers Market)'. The fee for the 'Additional stall (Farmers Market)' has been calculated at cost recovery. Without a fee for an additional stall if a trader wishes to have a second stall in the Farmers Market they would have to be charged at the full yearly rate of a single stall.

2.9 The Taxi licence fee proposal is to amend the fees so that they remain at the same level as in 2021-22. Taxi fees have to be set at a cost recovery level and many have a statutory requirement for consultation before they can be changed. In addition to amending the fees to the 2021-22 level the following additional amendments are suggested:

- The fee for a 'Basic Disclosure' is discontinued as these are no longer provided.
- That four of the refund categories be removed and be combined with other existing refund categories with minor amendments to their titles to reflect this.

2.10 Comprehensive work is planned for later in the financial year to ensure that all locally set fees and charges are operating at a cost recovery level. Once this has been completed the consultations can take place and the fees and charges can be amended where appropriate.

- 2.11 Four of the Gambling fees which are set by statute had been increased so it is proposed to return these to the statutory maximum.
- 2.12 It is proposed to discontinue all of the market fees except those in relation to electricity charges. The Markets now operate under Street Trading and are administered by Housing and Health rather than by Operations. As such some of the fees are duplications and some of the consent types no longer exist.
- 2.13 In the financial year to date the incorrect fees have not been charged and as such no fees need to be refunded to applicants.

3.0 Reason(s)

- 3.1 As a licensing authority we have fees and charges to cover all the regimes that we administer. It should be noted that some of the regimes have statutory fees, some are set locally but have statutory maximums and others can be set locally. Of those that can be set locally the vast majority must be set at cost recovery and surplus or deficit must be addressed in subsequent years. Others require consultation before any change can be legally implemented.
- 3.2 The 2022-23 fees and charges require minor amendment to ensure none are above the statutory maximums, locally set fees are not knowingly set above cost recovery and to ensure clarity for applicants.
- 3.3 The fees it is proposed to change are highlighted in **Appendix A** with the proposed amended fees detailed in **Appendix B**.
- 3.7 No changes have been proposed accept those detailed within this report and appendices.

4.0 Options

- 4.1 Do not endorse the revised fees and charges 2022-23 – NOT RECOMMENDED as the council has identified a need for the changes and if they are not made then we will be open to legal challenge.
- 4.2 Propose further amendments to the fees and charges 2022-23 appended to this report. If the Head of Housing and Health or the Executive Member for Planning and Growth wishes to do this, consideration will need to be given to whether the changes remain 'minor' or require a different route for approval – NOT RECOMMENDED as the minor changes need to be made in a timely way so that the fees and charges are accurate.
- 4.3 Endorse the revised amendments to the fees and charges 2022-23 as attached to this report without amendment - RECOMMENDED.

5.0 Risks

- 5.1 If the identified changes are not made then there is a legal risk for the authority as it may be charging more than it is allowed for a variety of permissions.
- 5.3 If the authority does not have robust and fit for purpose fees and charges in place then it is unable to ensure cost recovery opening the authority up to reputational risk if it is preserved that some applications are being subsidised whilst others are being overcharged.

6.0 Implications/Consultations

Community Safety

The proposed changes to the fees and charges will not undermine the safeguards that are in place when permissions are issued.

Data Protection

No changes are proposed to how data will be held or handled so no additional implications.

Equalities

Consideration has been given to the Equality Act 2010 and the Public Sector Equality Duty whilst drafting the Policy and an Equalities Impact Assessment was not considered necessary for the following reasons:

Negative Impacts

The council has not identified any negative effects from the proposed minor amendments to the Fees and Charges.

Positive Impacts

The council has identified that there will be positive effects from the amendments. The revised fees and charges detailed in this report will be accurate and easy to understand which will encourage applications.

Overall conclusion

There are no people with protected characteristics particularly represented amongst those that will be impacted by the minor amendments to the fees and charges 2022-23.

The revised policy fees and charges will ensure that the amount paid for obtaining a particular permission is fair and free of discrimination and there are no barriers to anyone making an application. On consideration, there is no negative impact on any characteristic or group as a result of this change.

Environmental Sustainability

None

Financial

Some of the fees and charges are being amended to lesser amounts than those approved by Council. This will result in marginally lower income than originally budgeted but the forecasting of income was based on the fees that should be charged. Taxi fee income is likely to be down by £6,600.00 on budget in this financial year with the overall figure forecast to be down £10,000 overall (based on forecasts for numbers of applications). Licensing income in this financial year to date is as forecast.

Health and Safety

None

Human Resources

None

Human Rights

As with all council functions, the Human Rights Act 1998 has been considered when drafting the report.

Legal

All statutory requirements have been considered in preparing this report. The proposed revised fees will minimise the likelihood of a challenge to the legality of the fees and the likelihood of success should a challenge be made.

Specific Wards

All

7.0 Background papers, appendices and other relevant material

7.1 **Appendix A** – Approved Fees and Charges 2022-2023

7.2 **Appendix B** – Revised Fees and Charges 2022-2023

7.3 Minutes of the Council meeting of 22/07/2020 -

<http://democracy.eastherts.gov.uk/ieListDocuments.aspx?CId=158&MId=3739&Ver=4&J=3>

Contact Member

Councillor Jan Goodeve – Executive Member for Planning and Growth

jan.goodeve@eastherts.gov.uk

Contact Officer

Jonathan Geall – Head of Housing and Health, Tel: 01992 531594.

jonathan.geall@eastherts.gov.uk

Report Author

Oliver Rawlings – Service Manager (Licensing and Enforcement), Tel:

01992 531629. oliver.rawlings@eastherts.gov.uk