

LICENSING COMMITTEE
WEDNESDAY 13TH FEBRUARY 2013

Submitted by: **Head of Central Services**

Purpose of the Report

To inform the Committee of the need to set licensing fees for the year 2013/2014 in respect of Sex Establishments and Gambling.

1. **Background**

Members will recall that it is a requirement for the Licensing Committee to approve the fees to be set for the coming financial year. A copy of the proposed fees can be seen at Appendix 1.

On the 9th March 2011 the Licensing Committee resolved that in relation to the licensing of Sexual Entertainment Venues the initial fee would be set at £3000 and that the renewal fee each year thereafter would be set at £2000.

2. **Issues**

In relation to fees charged to licensing these should be charged on a cost recovery basis.

The proposed fees and charges must meet the cost recovery criteria and in this respect the following apply:

The European Services Directive states (Art 12.2):

“Authorisation procedures and formalities shall not be dissuasive and shall not unduly complicate or delay the provision of the service. They shall be easily accessible and any charges which the applicants may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures in question and shall not exceed the cost of the procedures”.

Guidance for Local Authorities on the Provision of Service Regulations States (2nd Edition June 2009 Para 12d):

“Local Authorities must set fees that are proportionate to the effective cost of the procedure dealt with. As costs vary from region to region, central advice on the level of fees will not be appropriate. Local Authorities will need to bear in mind the threat of a legal challenge should the service provider feel that the level of fees are being used as an economic deterrent or to raise funds for local authorities. Enforcement costs should not be assimilated with the application fee. This is to forestall the possibility of an unsuccessful applicant seeking legal remedy due to part of his fees having been used to subsidise his successful competitors.

Guidance for Business on the provision of Service Regulations states (October 2009 Para 86):

“Under regulation 18, fees charged in relation to authorisations must be proportionate to the effective cost of the process, e.g. to cover the actual cost of the application process. Fees should not be used as an economic deterrent to certain activities or to raise funds. As now, if you believe the fee to be disproportionate you can contest it with the authority concerned”.

3. **Options Considered**

The Committee can:

- a) Approve the proposed list of fees and charges.
- b) Amend any or all of the proposed fees and charges.

4. **Proposal**

That the Committee consider the options.

5. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- Creating a Borough of Opportunity
- People who are able to work can do so and there is improved prosperity
- There is an entrepreneurial culture

6. **Equality Impact Assessment**

None

7. **Financial and Resource Implications**

The possibility of costs being awarded against the Council should a successful challenge be made in the courts

8. **Major Risks**

Should the Committee approve a level of fees which are in contravention of the relevant directive / regulations, the Council could be challenged in the Courts with the possibility of being awarded costs against the Council.