

Report title	Proposal for Pre-Application Fees
Report author	Robert Smith, Senior Licensing Officer
Department	Environmental Services
Exempt	No

Purpose of report:

To Resolve

Synopsis of report:

This report seeks the approval of this Committee to begin charging for pre-application advice for applications under the Licensing Act 2003

Recommendation that:

the introduction of charging for pre-application advice for applications under the Licensing Act 2003, be approved, as set out below:

- 1. Application Checking Service
Cost: £28**
- 2. Application Advice Service
Cost: £72**
- 3. Full Pre-Application Service
Cost: £275**

1. Context and background of report

- 1.1 The purpose of this report is to seek approval from the Committee to begin charging for the non-statutory function of providing licensing advice to prospective applicants.
- 1.2 The Licensing Act 2003 introduced a new mechanism for licensing of alcohol, entertainment and late-night refreshment, transferring some powers to Local Authorities. Fees for Licensing Act applications were originally set in 2005 by legislation and have not been reviewed since. This means that many authorities are not able to set fees to recover costs and many are operating their licensing functions at a loss.
- 1.3 Local Authorities have defined duties around receipt and processing of applications, however there is no statutory requirement to assist applicants through the licensing process. However, many do, as this is seen to assist business and encourage compliance. Many Local Authorities already charge applicants for this pre-application advice to recover costs. Such an approach has been common in other regimes such as Planning for some time.

2. Report and, where applicable, options considered and recommended

- 2.1 This proposal aims to introduce a chargeable pre-application advice service to recover the costs incurred by the licensing service assisting applicants through the licensing process.
- 2.2 The pre-application advice service is aimed at applicants for Premises Licences and Club Premises Certificates under the Licensing Act 2003.
- 2.3 By charging a fee for advice on licensing applications, it is envisaged that the current time spent on advising applicants following incorrect or incomplete applications without charge will end. All applicants will have the option to pay for pre-application advice.
- 2.4 The proposed service would be available to assist applicants in preparing applications with a view to ensuring applications are completed fully and correctly, thereby saving Officer time and very importantly, reducing the inconvenience and delays for applicants and their business.
- 2.5 Applicants would have a choice of three packages to choose from to suit their needs or budget. Additional Officer time can be purchased at an hourly rate.
- 2.6 Applicants would be under no duty to use the Council's service, as there are several consultants and legal firms who specialise in licensing and provide a similar offering.
- 2.7 Should applicants wish to rely on their own expertise, guidance is available on the Council's website where applicants can access information for themselves.
- 2.8 This proposed Licensing Service would not predetermine the outcome of any applications submitted but would provide expert advice and highlight any potential issues and advise on how applications may be approached to comply with legal requirements and local policy.
- 2.9 Charges are calculated using the hourly rates for Officers which include recharges. The fee calculations are shown at Appendix 'A'.
- 2.10 The three types of Service, with indicative initial costs, proposed are:

1. Application Checking Service
Cost: £28

Scope: A pre-submission validation check to ensure there are no errors or omissions that may result in an application being rejected as invalid. Does not include advice on the licensing process, application guidance or a meeting/visit with officers. Applicants would be provided with a list of deficiencies in their application but no advice as to how these deficiencies could be resolved. The anticipated turn-around time for this service would be 3 working days.

2. Application Advice Service
Cost: £72

Scope: This includes the Application Checking Service and up to an hour of officer time either by telephone or at the Council offices for advice on the licensing process, guidance on forms, plans, conditions, etc. Does not include site visits or input from

Environmental Health. Applicants would receive short written guidance on their application and how it could be submitted to comply with requirements and policy. The anticipated turn-around time for this service would be 10 working days.

3. Full Pre-Application Service
Cost: £275

Scope: This includes the Application Checking Service and up to 4 hours of officer time, including a site visit / meeting by a licensing officer. For advice where a site visit is essential and for applicants wishing to gain an understanding of potential issues that may arise from their application and consider any appropriate conditions. Applicants would receive written guidance on their application and how it could be submitted to comply with requirements and policy. The anticipated turn-around time for this service would be 10 working days.

- 2.11 Additional Licensing Officer time is charged at £55 per hour, payable in advance.
- 2.12 The Licensing Section handles approximately 300 applications of all types per year. Most of these are relatively 'straightforward' applications, where only very limited time is required by way of pre-application advice.
- 2.13 The service does however deal with approximately 20 new or variation applications under the Licensing Act 2003 per year, where often considerable Officer time is spent advising and assisting applicants.
- 2.14 Applicants currently only pay the statutory fee and as such the cost of Officer time spent on advising applicants is not recovered.

3. Policy framework implications

- 3.1 The Licensing Regime is governed by primary legislation and the Council's Licensing Policy.

4. Resource implications/Value for Money (where applicable)

- 4.1 It is considered that there is capacity within the service as the Licensing Service already offers this advice but free of charge.
- 4.2 Introduction of charges for pre application licensing advice presents an opportunity to recoup some of the costs associated with undertaking pre-application discussions with potential applicants, and to offset some of the costs of the licensing process.
- 4.3 It will be necessary to ensure that a profit is not made from the charges made (in the same way as a profit must not be made from licence fees). A similar accounting procedure as applies to fees for licences must therefore be put in place so that any surplus or deficit can be carried forward in subsequent years.
- 4.4 It is difficult to forecast how many applicants will take advantage of pre application advice but regardless it is considered fair that cost are recovered. An update on amount of use this service gets would be made in the annual report to this Committee.
- 4.5 Most applicants require some assistance and while some use established legal firms, others rely on our expertise.

5 Legal implications

- 5.1 The Council has a legal duty to consider applications submitted to it in line with the appropriate legislation. However, the Council is not required to provide advice to applicants in order to assist them through the application process, but it is good practice to do so as it avoids poor application forms being submitted, and then potentially rejected and the applicant having to re-submit a fresh application which takes up more time for all involved.
- 5.2 The introduction of charges for pre-application advice is permitted under Section 93 of Local Government Act 2003. This power was introduced to allow local authorities to charge for discretionary activities – those services that a local authority has the power to provide but is not obliged to and cannot otherwise charge for. The customer must expressly agree to the service and the charge.

6. Equality implications

- 6.1 The pre-application advice service would be offered on a without prejudice basis and any charging applying to all prospective applicants. There is no obligation for applicants to utilise the Council's service as all Licensing applications are determined in line with the relevant legislation and the Council's Licensing Policy.

7. Environmental/Sustainability/Biodiversity implications

- 7.1 None Identified

8. Other implications (where applicable)

- 8.1 None Identified

9. Timetable for Implementation

- 9.1 Should Members agree to the introduction of the proposed charges, Officers would recommend an implementation date of 1 April 2024, the beginning of the new financial year.
- 9.2 It is considered essential that the new charging regime is well advertised, with a reasonable lead in period. There are several methods that we consider necessary to achieve this. To advertise the changes at least 6-8 weeks before they are introduced. This would be by social media, notices in reception, information on our website, and at Pub watch meetings.
- 9.3 All relevant staff would be given instructions on the new charging regime so that they are aware.
- 9.4 A note about the pre-application fees would also be appended to the statutory application forms to make applicant aware of the new charge.

10. Conclusions

- 10.1 The reasonable fees and provision of this service will provide much needed clarity for applicants around what they are getting for their money and the level of assistance the service can provide.

11. Background papers

Licensing Act 2003
[Licensing Act 2003 \(legislation.gov.uk\)](#)
Local Government Act 2003
[Local Government Act 2003 \(legislation.gov.uk\)](#)

12. Appendices

Appendix A – Fee Calculations