

**REPORT OF CORPORATE DIRECTOR CITY DEVELOPMENT  
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982  
SEX ESTABLISHMENT LICENCE - INCREASE IN FEE**

**1.0 SUMMARY**

- 1.1 This report outlines a proposal to increase the cost of obtaining a Sex Establishment Licence. The increase in cost is to reflect the increased work that is put into the process of licence determination and which necessarily needs to be recovered.

**2.0 RECOMMENDATIONS**

**IT IS RECOMMENDED THAT**

- 2.1 The Committee approves the increase in fee as set out in this report, with immediate effect.
- 2.2 Determine that the fee payable by an applicant for the grant or renewal of a Sex Establishment Licence be made up of the Application fee (non-returnable) and the Licence fee. The Application fee being payable when a full application is lodged with the Council's Licensing Service and the Licence fee being payable upon grant of licence.

**3.0 BACKGROUND**

- 3.1 The Act allows a Council to charge an applicant a reasonable fee on making application for grant, renewal or transfer of such licence. This Committee has delegated powers to the Director to increase fees in line with inflation. The proposal in this report recommends an increase in excess of inflation for sex establishment licences. Members are reminded that they have chosen to operate this as a non-refundable "application fee" to cover the application administrative process up to committee time including internal consultee costs, and a further "licence fee" that covers the determination and the majority of the enforcement costs of the licence regime.
- 3.2 On 8 April 2002 this Committee approved an increase in the application fee for a Sex Establishment Licence to from £1,500 to £2000 – non-refundable, with a further increase from £1,600 to £2000 payable on the grant of licence. This figure has subsequently increased in line with inflation.

**4.0 PROPOSALS**

- 4.1 The Council has now granted three such licences. Experience of administration and enforcement activity in this area of licensing has shown that the cost of determining and enforcing the licence provisions has increased particularly in respect of shops that appear to sell material of an 'adult' nature and as such may fall to be licensed as Sex Establishments.
- 4.2 In seeking to recover its costs the Council has to anticipate and try to predict the amount of work that the function is going to create. The setting of the fee therefore is not a precise science but is based on forecasts, the current situation and past experience. Because of the sensitive nature of such applications and because such applications and premises frequently attract objections and complaints they are dealt with by the Licensing Committee itself rather than under delegated powers.

4.3 An estimate of current cost of this service is shown in Table 1 below. Table 2 shows the current and proposed fee for a Sex Establishment licence. Comparison can be made with other local authority licence costs for comparable purposes, and Table 3 gives such detail.

4.4 **Table 1 - Estimation of average costs associated with the application and determination (including enforcement) of the Sex Establishment Licence function.**

	Time (hours)	Application costs (£)	Time (hours)	Licence costs (£)
Administration	18	600	6	200
Consultation	15	720	3	175
Determination	0.5	205	5	2,050
Enforcement	5	534	30	1,350
<b>Total</b>	<b>38.5</b>	<b>2,059</b>	<b>44</b>	<b>3,775</b>

4.5 **Rationale**

**Administration:** The application is checked for accuracy and completeness. There is the need for a thorough inquiry into the background of the applicant and suitability of the location of the proposed shop premises. Frequently there is extensive correspondence with the applicant and his legal advisors, petitions, letters of enquiry and objection often from members of the public, Councillors, press and media representatives by way of telephone calls, faxes and emails. Much of the correspondence is required to be passed to the applicant and this in turn will often generate yet further correspondence. All correspondence needs to be replied to which on occasions is by a holding response pending a full written response. Production of the minutes and any licence grant or refusal results in correspondence to all relevant parties.

**Consultation:** The process is particularly wide with copies of the application forwarded to consultees including the Police, EHO, elected Ward Members, Trading Standards, Social Services, Planning and Economic Development. Often visits are made to the premises or the area in which they are situated, and a report is subsequently written by the consultee to the Licensing Service.

The co-ordination of the legal aspects and morality interest of others in the application necessitates substantial involvement by the Service Manager and Licensing Officer. They will also liaise with senior managers in the Authority and will also hold several meetings between themselves and City Secretary's legal team as required. Liaison with the media and elected members will occur as necessary during this time. The consultants will attend the committee hearing.

**Determination:** The Licensing Committee has determined that all sex-related licence applications come before it. The Committee tends to meet for an average of five hours for a typical initial application. The Council is seeking to recoup an element of member's allowances, officer salaries and accommodation costs. Applications are frequently made with Barrister representation and will often attract much opposition to such activities from persons who demand to be heard at the Committee and interest from the media who report on such matters. These latter points frequently result in the Committee hearings last some hours.

**Enforcement:** Finally there will be a need for ongoing monitoring of the licence and enforcement of licence conditions as necessary including checks made where premises appear to be operating as unlicensed establishments. Recently there has been a significant increase in the number of 'adult' shops trading in the City which has resulted in protracted enforcement action involving the EHOs, Trading Standards and senior managers of the City Council leading to increased costs in this respect.

Transfer Fee: This fee reflects the staffing costs involved in effecting a transfer of the licence which are mainly administrative but may include consultation with relevant internal consultees as necessary.

**4.7 Table 2 - Current and Proposed fee for a Sex Establishment Licence.**

Fee Element	Current Fee (£)	Proposed Fee (£)
Application fee	2,070	2070
Licence Fee	2,070	3,775
Total amount payable	4,140	5,845
Transfer fee	1,221	1,221

**4.6 Table 3 - Comparison with Sex Establishment fees charged by other local authorities.**

Authority	Fee description	Amount of fee (£)
Leicester City	Initial application	4480
	Renewal	1903
Stoke City	Initial application	5670
Birmingham City	Initial application (6 months)	4750
	Initial application (12 months)	8700
	Transfer	1050
Derby City	Initial application	755

**5.0 FINANCIAL IMPLICATIONS**

**5.1 Observations of the Responsible Financial Officer**

Table 1 in the report provides an estimate of the average cost associated with the application, determination and enforcement of the Sex Establishment Licensing function. The proposed charges are set at a level to recover those costs

**6.0 LEGAL IMPLICATIONS**

6.1 The legislation in this case requires an applicant to pay a reasonable fee determined by the authority upon an application for the grant, renewal or transfer of a sex establishment licence. Case law has indicated that such fees should not be oppressive but may include not only the costs of administering the function but also inspection and enforcement costs.

**7.0 EQUAL OPPORTUNITIES IMPLICATIONS**

7.1 The Council is committed to the delivery of services in a fair and non-discriminatory way, and to ensuring that all persons have access to a fair hearing.

**8.0 CORPORATE OBJECTIVES**

None.

**9.0 BEST VALUE**

The proposed fee structure will better reflect the input into the determination of a licence.

**10.0 List of background papers other than published works or those disclosing confidential or exempt information**

None.

## **11.0 Published documents referred to in compiling this report**

- 11.1 Committee report before Licensing Committee on 8 April 2001, "Increase in Sex Establishment Licence Fees".

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