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## **LICENSING AND SAFETY COMMITTEE**

**22 OCTOBER 2020**

### **SUPPLEMENTARY PAPERS**

**TO: ALL MEMBERS OF THE LICENSING AND SAFETY COMMITTEE**

The following papers were circulated at the above meeting.

Kevin Gibbs  
Executive Director: Delivery

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**Submitted to: Paul Anstey/ Sean Murphy**

**Public Question for JPPC Meeting**

**28 September 2020**

**(a) Question submitted to the Chairman by Ms Jackie Whitbread:**

**Question:**

“Will the Chairman confirm that the use of a single recovery rate for all licensed Local Home Dog Boarders served by the Public Protection Partnership does not contravene requirements for separate accounting and without cross subsidisation between all licence holders, in the light of the Hemming v Westminster Court of Appeal 2013 case?”

*Full submission for info:*

“Local Home Dog Boarders believe that differently qualified staff are needed for different licence types issued by PPP and that services are undertaken by qualified and non-qualified administrative staff. We do not understand how administrative and differing level of technical competence can be recovered at a single rate without implicit cross subsidisation in the true meaning of the term but cross-subsidisation between licence types is not permitted under Hemming v Westminster Court of Appeal 2013.

Will the members confirm that the use of a single recovery rate for all licensed businesses served by the PPP does not contravene requirements for separate accounting and without cross subsidisation between licence holder, please - quoting legal support for the current arrangement in the light of the case quoted?”

Jackie Whitbread

On behalf of Home Dog Boarders under the West Berks PPP

**Briefing Note:**

The Public Protection Partnership (PPP) has always aspired to be an efficient service and in the first 3 years of operation it has met all its financial targets. This efficiency also translates into the very competitive hourly rate it operates with. We believe that the rate we are charging is reasonable and proportionate, and therefore compliant with the principles of the relevant legislation, but that it would be helpful to give an indication of how the fee level has been calculated. .

We wish to make clear that at no point has the PPP made a surplus on its licensing operations and based on the current budget methodology there is no evidence that it has used surplus from one fee to subsidise another. In fact, it has often been the case that the scale and resilience of the PPP has shielded businesses from undesirable increases in fees and charges over the years. It is accepted that further review of accounting procedures for discretionary fees would improve clarity on this point.

There are 113 Home Boarders across the PPP area. Current time allocation is 8 hrs per licence. If all businesses were rated low risk this would generate approximately £67k across 3 years (£22.3k per year). This is less than 2.5% of the total income the PPP receives for Licensing.

As per the cited LGA source 'Open for business LGA guidance on locally set licence fees'), the PPP can consider the following elements

- Administration
- Site visits
- Third party costs
- Liaison with interested parties
- Management costs
- Local democracy costs
- On costs
- Development, determination and production of licensing policies
- Web material
- Advice and guidance
- Setting and reviewing fees

Further compliance and enforcement costs can include:

- Additional monitoring and inspection visits
- Local democracy costs
- Registers and national reporting

This legislation also allows for the recovery of costs for action against unlicensed traders.

We have liaised with our legal colleagues and they have reviewed both the amount of the fee, based on evidence provided about the workload requirement, and the level of transparency available to explain how the hourly rate was calculated. They also considered the issue of taxi case law (EWHC 3664 [Admin]) and confirmed that it had no relevance to the home boarding regulations.

It was concluded that the whilst the rate may be appropriate, more could be done to expand on the issue of differential rates for those officers involved in the specific area of Licensing.

The current hourly rate is an averaged number to reflect, in essence, total cost divided by total headcount. This was designed to be simple and easy to understand and to reduce the amount of officer and manager time required to break down the many licence types the PPP administer. The nature of the PPP budget and its financial controls means it is a very complex organisation. To analyse and interpret every budget line would be a highly time consuming task. Managers have attempted to take a balanced view on how far to take this information in the creation of a charging scheme that most people and businesses can understand.

There are many job titles and pay ranges involved in the delivery of Licensing services. To assist in this process the following levels have been identified, along with their cost (based on employees costs as stated in the 20/21 budget rounded up to the nearest 1p). On-costs have been calculated based on details provide by finance on support service recharges and expressed as a percentage of overall cost i.e. 31%:

Home Boarding Calculations	base rate	on costs (31%)	total cost		
Admin	£ 22.85	£ 7.08	£ 29.93		
Officer	£ 29.15	£ 9.04	£ 38.19		
Snr Officer	£ 40.95	£ 12.69	£ 53.64		
Manager	£ 47.29	£ 14.66	£ 61.95		
Snr Manager	£ 78.00	£ 24.18	£ 102.18		
			£ 57.18	AVERAGE	

Future fees would be set on this basis, but it was also acknowledged that in delivering this service the PPP used a contractor.

The Joint Public Protection committee considered this and in summary they agreed that if a contract is in place to deliver the service the charges for that should be passed on plus what it costs the PPP to administer the applications and the contract itself:

1. Application process (2hrs at £59 per hr) = £118
2. A contribution to the overall annual contract cost of £1000, which based on 113 businesses would come in at £8.85 per year.
3. Plus any of the charges passed on by the contractor:

Home boarder	Renewal Licence Inspection	£115.00
	New Licence application	£145.00
	Complaint Visit 1st hour including travel and report writing	£115.00
	Complaint visit additional charge per hour	£50.00
	reassessment of star rating visit	£115.00

So as a worked example:

**1 year licence (new) = £118 + £8.85 + £145 = £271.85**

**1 year licence (renewal) = £118 + £8.85 + £115 = £241.85**

Where additional visits are deemed necessary, and are completed, the business will be charged for that specifically by passing on the contract costs stated above.

Complaint visits will be invoiced directly to the businesses and a review of complaint levels will take place annually to determine whether effective resources have been allocated to protect the sector.

More detailed analysis of time recording for the additional LGA elements and the performance of the contract will be brought back to the Committee in 2021.

Any business charged the previous rates for 2020/21 and has not received a mid-year inspection will be refunded accordingly.

**Submitted to: Paul Anstey/ Sean Murphy**

## **Public Question for JPPC Meeting**

**28 September 2020**

**(b) Question submitted to the Chairman by Ms Karen Fleck:**

**Question:**

”Chairman, given that local authorities have a duty to set licensing fees at a reasonable and proportionate level, what comments will you make on the fact that the revised Dog Home Boarding Licence fees have been set at a level that exceeds the maximum fine legislated by parliament and is, therefore, likely to act as a deterrent to local businesses in these most difficult of times?”

**Briefing Note:**

The duty to set licensing fees at a reasonable and proportionate level is to ensure there is no unnecessary burden on business.

***As a point of clarification;***

In part 3 Regulation 20 of The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 it sets out the following:

‘(1) It is an offence for a person, without lawful authority or excuse—

(a) to breach a licence condition;

(b) to fail to comply with regulation 7 or 19.

(2) A person who commits an offence under paragraph (1) is liable on summary conviction to a fine.’

The procedural guidance note for local authorities identifies the offence for anyone who carries on any of the licensable activities without a licence:

‘is liable to imprisonment for a term of up to six months, a fine or both, section 30 of the Animal Welfare Act 2006 allows for local authorities to prosecute for any offences under that Act.’

**Section 32 of the Animal Welfare Act also identifies that the fine is not to exceed level 5 on the standard scale which is now unlimited.**

**Submitted to: Paul Anstey/ Sean Murphy**

**Public Question for JPPC Meeting**

**28 September 2020**

**(c) Question submitted to the Chairman by Mr Phil Hope:**

**Question:**

“Can the PPP confirm that the Public Protection Partnership is legally compliant with the legislation for ‘the schemes for the licensing of houses in multiple occupation ('HMOs') under Part 2 of the Housing Act 2004 ('the 2004 Act') are authorisation schemes, within the meaning of EU Directive 2006/123/EC ('the Directive') and regulations incorporating the Directive in domestic law: the Provision of Services Regulations 2009 ('the 2009 Regulations')’?”

**Briefing Note:**

The Public Protection Partnership (PPP) has always aspired to be an efficient service and in the first 3 years of operation it has met all its financial targets. This efficiency also translates into the very competitive hourly rate it operates with. We believe that the rate we are charging is reasonable and proportionate, and therefore compliant with the principles of the relevant legislation, but that it would be helpful to give an indication of how the fee level has been calculated. .

We wish to make clear that at no point has the PPP made a surplus on its licensing operations and based on the current budget methodology there is no evidence that it has used surplus from one fee to subsidise another. In fact, it has often been the case that the scale and resilience of the PPP has shielded businesses from undesirable increases in fees and charges over the years. It is accepted that further review of accounting procedures for discretionary fees would improve clarity on this point.

There are approximately 216 HMO's in the PPP area, current time allocation per licence is 21hrs. This is a business operation and should be viewed as such.

If all businesses were fully compliant this would generate approximately £258.5k across 5 years (£51.7k per year). This is 6% of the total income we receive for Public Protection.

For £51.7k per year the PPP should consider how to fund the following (based on the list from the cited LGA source ‘Open for business LGA guidance on locally set licence fees’):

- Administration
- Site visits
- Third party costs
- Liaison with interested parties
- Management costs
- Local democracy costs

- On costs
- Development, determination and production of licensing policies
- Web material
- Advice and guidance
- Setting and reviewing fees

In addition these particular regulations also require consideration for further compliance and enforcement costs which could include:

- Additional monitoring and inspection visits
- Local democracy costs
- Registers and national reporting

**Submitted to: Paul Anstey/ Sean Murphy**

**Public Question for JPPC Meeting**

**28 September 2020**

**(d) Question submitted to the Chairman by Mr Phil Hope:**

**Question:**

“Is the hourly fee of £57 per hour totalling 20 Hours for the licencing of Houses in Multiple Occupancy directly proportional to the administration of the HMO licencing scheme only and can evidence be provided to support this?”

**Briefing Note:**

PPP are proposing to charge £1204 for new, assisted applications and £805 for renewals. This was based on a singular hourly rate. This has now been reviewed with a tiered hourly rate, see below for breakdown:

Time breakdown for 2019/20 is as follows:

HMO Calculations	base rate	on costs	total cost
Admin	£ 22.85	£ 7.08	<b>£ 29.93</b>
Officer	£ 29.15	£ 9.04	<b>£ 38.19</b>
Snr Officer	£ 40.95	£ 12.69	<b>£ 53.64</b>
Manager	£ 47.29	£ 14.66	<b>£ 61.95</b>
Snr Manager	£ 78.00	£ 24.18	<b>£ 102.18</b>
		average	£ 57.18
Administration (including consultation process):			
Admin	2	£ 59.87	
Officer	3	£ 114.56	
Initial visit			
Snr Officer	5	£ 268.22	
Liaison with interested parties:			
Manager	1	£ 61.95	
Management costs:			
Manager	1	£ 61.95	

Snr Manager	1	£ 102.18	
Local Democracy costs:			
Officer	0.25	£ 9.55	
Manager	0.5	£ 30.97	
Development, determination and production of licensing policies:			
Officer	0.25	£ 9.55	
Snr Officer	0.5	£ 26.82	
Manager	0.5	£ 30.97	
Web material:			
Snr Officer	0.25	£ 13.41	
Advice and guidance:			
Officer	3	£ 114.56	
Snr Officer	0.25	£ 13.41	
Manager	0.25	£ 15.49	
Setting and reviewing fees:			
Manager	1	£ 61.95	
Snr Manager	1	£ 102.18	
<b>Further compliance and enforcement costs:</b>			
Additional monitoring and inspection visits:			
Snr Officer	n/a	n/a	
Local democracy costs:			
Officer	n/a	n/a	
Manager	n/a	n/a	
Registers and national reporting:			
Officer	n/a	n/a	
Manager	n/a	n/a	
<b>Charging for action against unlicensed traders:</b>			
Snr Officer	n/a	n/a	
<b>GRAND TOTAL</b>	20.75	£1,097.59	<b>£1,098 rounded</b>
10% discount for accredited* landlords		£109.80p	<b>£988 rounded</b>
Admin reduction for multiple properties (1hr per	£29.93		<b>£30 rounded</b>

property)			
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**\*to be confirmed.**

More detailed analysis of time recording for the additional LGA elements and the performance of the contract will be brought back to the Committee in 2021.

Any business charged the previous rates for 2020/21 and has not received a visit will be refunded accordingly.

**NOTE: Comparisons with local LAs**

Oxford City – Standard new application 1 yr licence = £541

Oxford City – Standard renewal 1 yr licence = £258

5 year total cost = £1573

Additional discounts apply based on compliance levels.

No hourly rate published.

Reading BC – Standard new application = £770

Reading BC – Standard renewal = £475

Reading BC charge £218.88 for up to 2hrs work – non-statutory inspection charge

Vale of White Horse – Standard new application = £756

Vale of White Horse – Standard renewal = £534

Additional fees apply to bigger houses and requested inspections (£150 per visit)

Slough – standard new application = £750

Slough – standard renewal = £750

Additional fees per room (£30 per room)

Swindon – standard application (new and renewal up to 10 occupants) = £1250

Swindon – standard application (new and renewal more than 10 occupants) = £1400

Discounts for online applications

Wycombe – standard new application = £1000

Wycombe – standard renewal = £700

Additional fees for above 5 bedrooms (£25 each) and discounts for those who are Landlord Association members

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