

AMENDED AGENDA
BOROUGH OF BARROW-IN-FURNESS
LICENSING REGULATORY COMMITTEE

Meeting, Thursday 3rd September, 2015
at 2.00 p.m. (Drawing Room)

AGENDA

PART ONE

1. To note any items which the Chairman considers to be of an urgent nature.
2. To receive notice from Members who may wish to move any delegated matter non-delegated and which will be decided by a majority of Members present and voting at the meeting.
3. Admission of Public and Press

To consider whether the public and press should be excluded from the meeting during consideration of any of the items on the agenda.
4. Declarations of Interest.

To receive declarations by Members and/or co-optees of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the revised Code of Conduct, they are required to declare any disclosable pecuniary interests or other registrable interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting).

Members may however, also decide, in the interests of clarity and transparency, to declare at this point in the meeting, any such disclosable pecuniary interests which they have already declared in the Register, as well as any other registrable or other interests.
5. Apologies for Absence/Attendance of Substitute Members.
6. To confirm the Minutes of the meeting held on 23rd July, 2015 (copy attached) and the Minutes of the Special meeting held on 13th August, 2015.

FOR DECISION

- (D) 7. Zoo Licensing Act 1981 (as amended) - Setting an Application/Renewal Fee for a Zoo Licence 2015/16.

- (R) 8. Zoo Licensing Act 1981 (as amended) - Policy to Achieve Full Cost Recovery in Respect of Premises Licensed under the Zoo Licensing Act 1981.

PART TWO

- (D) 9. Complaints Against Private Hire Operator and Driver.

NOT FOR PUBLICATION BY VIRTUE OF PARAGRAPH 1 OF PART ONE OF SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972 AND ACCESS TO INFORMATION (VARIATION) ORDER 2006

NOTE (D) - Delegated
(R) - For Referral to Council

Membership of Committee

Callister (Chairman)
Seward (Vice Chairman)
Biggins
Bleasdale
Derbyshire
Graham
Heath
W. McClure
Maddox
Opie
Proffitt
Wall

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BOROUGH OF BARROW-IN-FURNESS
LICENSING REGULATORY COMMITTEE

Meeting: Thursday 23rd July, 2015
at 2.05 p.m. (Drawing Room)

PRESENT:- Councillors Callister (Chairman), Seward (Vice-Chairman), Barlow, Biggins, Bleasdale, Derbyshire, Opie, Proffitt and C. Thomson.

Officers Present:- Graham Barker (Principal Environmental Protection and Licensing Officer), Jennifer Curtis (Senior Licensing Officer) and Keely Fisher (Democratic Services Officer).

Legal Representative – Mr Paul O'Donnell.

5 – Declarations of Interest

Referring to Agenda Item Nos. 7, 8, 9 – Applications for Street Collections Permits (Minute Nos. 8, 9 and 10), Councillor Barlow declared a personal interest as he was the Treasurer of the Barrow and District Disability Association.

Referring to Agenda Item Nos. 7, 8, 9 – Applications for Street Collections Permits (Minute Nos. 8, 9 and 10), Councillor Biggins declared a personal interest as his wife worked for the British Heart Foundation.

Referring to Agenda Item Nos. 7, 8, 9 – Applications for Street Collections Permits (Minute Nos. 8, 9 and 10), Councillor Derbyshire declared a personal interest as her sister worked for the British Heart Foundation.

Referring to Agenda Item Nos. 7, 8, 9 – Applications for Street Collections Permits (Minute Nos. 8, 9 and 10), Councillor C. Thomson declared a personal interest as he is a member of the Barrow and District Disability Association.

6 – Apologies for Absence/Attendance of Substitute Members

Apologies for absence had been submitted from Councillors Graham, Heath, Maddox and Wall.

Councillors C. Thomson and Barlow had replaced Councillors Graham and Wall respectively for this meeting only.

7 – Minutes

The Minutes of the Licensing Regulatory Committee meeting held on 25th June, 2015 were taken as read and confirmed.

8 – Application for Street Collection Permit – Children with Cancer UK

The Senior Licensing Officer reported that the Licensing Authority had received an application for a Street Collection permit from Miss Tracey Leeder on behalf of Children with Cancer UK. The date requested was Sunday 9th August, 2015 between 9.00 a.m. and 8.00 p.m.

The Police, Factories and (Miscellaneous Provisions) Act 1916 allowed Local Authorities to make regulations regarding street collections, where and conditions under which persons may collect money or sell articles for the benefit of charity “or other purposes”.

Current application criteria stated:-

“No organisation will be granted more than one collection date in each calendar year.

No more than 50 street collection permits be granted in any one calendar year, such permits to be for collection days on either Fridays or Saturdays. No mid-week collections to be allowed.

The Licensing Committee or the Panel to consider any special request for additional collections may be brought to their attention from time to time by any of the applicants to take on board such things as Centenary or other celebration years which may be special to individual charities”.

Miss Leeder’s request was for a Sunday collection, during a walk from Ulverston to Barrow. The appropriate permit had been applied for from a neighbouring authority.

Miss Leeder had been invited to attend Licensing Regulatory Committee to make a representation in support of her application but had not done so.

The Senior Licensing Officer had recommended that the Street Collection Permit be granted for the following reasons:-

- a) There had been no street collection on behalf of Children with Cancer UK this calendar year;
- b) The Licensing Authority was permitted to grant no more than 50 street collection permits per calendar year; 9 had currently been issued; and
- c) The Licensing Regulatory Committee could consider requests for additional collections from time to time.

RESOLVED:- That the application for a Street Collection permit for Sunday 9th August, 2015 be approved.

9 – Application for Street Collection Permit –Dalton Festival Association

The Senior Licensing Officer reported that the Licensing Authority had received an application for a Street Collection permit from Sylvia Stoker on behalf of Dalton Festival Association. The date requested was Thursday 24th December, 2015 between 4.30 p.m. and 7.00 p.m.

The Police, Factories and (Miscellaneous Provisions) Act 1916 allowed Local Authorities to make regulations regarding street collections, where and conditions under which persons may collect money or sell articles for the benefit of charity “or other purposes”

Current application criteria stated:-

“No organisation will be granted more than one collection date in each calendar year.

No more 50 street collection permits be granted in any one calendar year, such permits to be for collection days on either Fridays or Saturdays. No mid-week collections to be allowed.

The Licensing Committee or the Panel to consider any special request for additional collections which may be brought to their attention from time to time by any of the applicants to take on board such things as Centenary or other celebration years which may be special to individual charities”.

Mrs Stoker’s request was for a mid-week collection.

Mrs Stoker attended the Licensing Regulatory Committee to make representations in support of her application.

The Senior Licensing Officer recommended that Members grant the Street Collection Permit for the following reasons:-

- a) There had been no street collection on behalf of Dalton Festivals Association this calendar year;
- b) The Licensing Authority was permitted to grant no more than 50 street collection permits per calendar year; 9 had currently been issued; and
- c) The Licensing Regulatory Committee could consider requests for additional collections from time to time.

RESOLVED:- That the application for a Street Collection Permit for Thursday 24th December, 2015 be approved.

10 – Application for Street Collection Permit –Scoobie Doo Dog Rescue

The Senior Licensing Officer reported that the Licensing Authority had received an application for a Street Collection permit from Mrs Claire Golder on behalf of Scoobie Doo Dog Rescue. The date requested was Sunday 25th October, 2015 between 10.00 a.m. and 5.00 p.m.

The Police, Factories and (Miscellaneous Provisions) Act 1916 allowed Local Authorities to make regulations regarding street collections, where and conditions under which persons may collect money or sell articles for the benefit of charity “or other purposes”

Current application criteria stated:-

“No organisation will be granted more than one collection date in each calendar year.

No more 50 street collection permits be granted in any one calendar year, such permits to be for collection days on either Fridays or Saturdays. No mid-week collections to be allowed.

The Licensing Committee or the Panel to consider any special request for additional collections which may be brought to their attention from time to time by any of the applicants to take on board such things as Centenary or other celebration years which may be special to individual charities.

The applicant's request was for a Sunday collection, during a walk from Tudor Square in Dalton to The Ferry, Walney Island.

Mrs Golder attended the Licensing Regulatory Committee to make representations in support of her application.

The Senior Licensing Officer recommended that Members grant the Street Collection Permit for the following reasons:-

- a) There had been no street collection on behalf of Scoobie Doo Dog Rescue this calendar year;
- b) The Licensing Authority was permitted to grant no more than 50 street collection permits per calendar year; 9 had currently been issued; and
- c) The Licensing Regulatory Committee could consider requests for additional collections from time to time.

RESOLVED:- That the application for a Street Collection Permit for Sunday 25th October, 2015 be approved.

11 – Application for Street Trading Consent – Mobile Catering Unit, Bouthwood Road, Barrow-in-Furness

The Principal Environmental Protection and Licensing Officer reported that the Licensing Authority had received an application for a Street Trading Consent from Mrs Angela Rea.

The application related to a stationary catering van, sited on Bouthwood Road, Barrow-in-Furness, with the intention of selling fast food.

A copy of the map showing the area in which Mrs Rea had applied to trade was attached as an appendix. Additional information had been circulated at the meeting with maps and photographs showing the intended location of the application site.

Barrow Borough Council operated a consent scheme for street trading. Trading within the Borough was prohibited without obtaining the consent of the Council.

Consents were issued subject to a set of standard conditions and could be granted for a period not exceeding 12 months.

Mrs Rea had applied for a 3 month Street Trading Consent.

Upon application in writing to the Council, as required by Paragraph 7 of Schedule 4, the Council may grant consent if they think fit, and may attach such conditions to it as they consider reasonably necessary. These conditions were attached as an appendix to the report.

Condition number 12 stated that:-

“The Trader must operate his/her business on a mobile basis and can therefore stop for only 10 minutes in any section of a street and thereafter must move into a different street and must not then return to the same section of that street that day”.

Members approval was needed to remove this condition from a street trading consent.

As part of the application procedure the Licensing Authority had consulted with the Planning department, Trading Standards, Cumbria Constabulary and Cumbria Highways.

A representation had been made by Melanie Bower, Traffic Management Officer, Cumbria Highways via email on 10th July 2015. She stated that:-

“Highways strongly object to this proposal on safety grounds.

This is an extremely busy junction primarily used by heavy goods vehicles and feeding out onto a 60mph main road. Stopping in the vicinity of this junction should not be encouraged and I feel this would present a very high risk to other road users”.

Additional information from Cumbria Highways expanding on their objection had been circulated at the meeting.

Melenie Bower attended the Licensing Regulatory Committee to make representations to the Committee.

Mrs Rea, the applicant attended the meeting and made representations to the Committee in support of her application. Having noted the objections of Cumbria County Council's Traffic Management Officer, Mrs Rea sought permission to vary her application at the meeting to a location on a nearby side street known as Scarth Road. This was agreed by the Committee. A map was circulated by Mrs Rea enabling Members of the Committee to view the new intended site.

It was moved by Councillor Biggins and duly seconded that the application be approved and Street Trading Consent be granted for a period of 3 months subject to conditions restricting where and when the holder may trade and approve the removal of Condition No. 12.

It was moved by Councillor Barlow that an amendment be made to the motion adding a condition restricting any advertising signage within the vicinity of the A590. This was duly seconded and voted upon and it was

RESOLVED:- That a Street Trading Consent be granted:-

- (i) For a period of 3 months;
- (ii) Subject to the Council's Standard Conditions but excluding Standard Condition No. 12; and
- (iii) An additional condition be added to the consent restricting any advertising signage being placed within the vicinity of the A590.

12 – Application for Removal of a Condition on a Street Trading Consent – Mobile Catering Unit, Ormsgill Lane, Barrow-in-Furness

The Senior Licensing Officer reported that the Licensing Authority had received an application for a street trading consent from Mr Paul Wadsworth.

Mr Wadsworth's application was for a mobile catering van with the intention of selling fast food. Such trading contravened a condition attached to street trading consents; the removal of this condition required approval by Members.

A copy of the map showing the area in which Mr Wadsworth had applied to trade was attached as an appendix to the report.

Barrow Borough Council operated a consent scheme for street trading. Trading within the Borough was prohibited without obtaining the consent of the Council.

Consents were issued subject to a set of standard conditions and could be granted for a period not exceeding 12 months. Mr Wadsworth had applied for a 12 month Street Trading Consent.

Upon application in writing to the Council, as required by Paragraph 7 of Schedule 4, the Council may grant consent if they think fit, and may attach such conditions to it as they consider reasonably necessary. These conditions were attached as an appendix to the report.

Condition number 12 stated that:-

“The Trader must operate his/her business on a mobile basis and can therefore stop for only 10 minutes in any section of a street and thereafter must move into a different street and must not then return to the same section of that street that day”.

Members approval was needed to remove this condition from the street trading consent.

As part of the application procedure the Licensing Authority consulted with the Planning Authority, Trading Standards, Cumbria Constabulary and Cumbria Highways.

Representation was made by Jason Hipkiss, Development Services Manager (Planning Authority) via email on 22nd April, 2015. He stated:-

“If the intention was to trade for more than 28 days in any calendar year then prior planning consent for a change of use would be required. We would have to assess potential highway matters such as an increase in right turning traffic from vehicles heading south, and the possible impact upon any residential amenities arising from late night use”.

Further representation was made by Jason Hipkiss, Development Services Manager (Planning Authority) via email on 30th April, 2015. He stated:-

“The site appears to be within the public car park which is owned by Cumbria County Council and adopted under the Highways Act. Their permission to use the land in this manner will be needed. As the proposal relates to a mobile van, which should be removed at the end of the trading day, it does not require planning consent. A more permanent structure may however require formal consent under the Planning Acts”.

Martin Taylor from Cumbria Highways made representation via email on 2nd June, 2015 as follows:-

“Cumbria Highways do not approve any trading on the highway or its property. If we receive any reports of an obstruction we will ask the vehicle to be removed with assistance from the Police”.

The Senior Licensing Officer clarified Mr Taylor’s response stating that Cumbria Highways did not formally approve street trading consents; it was a function of the Borough Council.

Mr Harrison, a representative on behalf of Mr Wadsworth attended the Licensing Regulatory Committee to make representations in support of the application.

It was moved by Councillor Bleasdale and duly seconded that the removal of Condition No. 12 be approved and Street Trading Consent be granted for a period of 12 months with a condition to be added restricting any advertising signage within the vicinity of the A590.

The motion was voted upon and it was

RESOLVED:- That the Street Trading Consent be granted:-

- (i) For a period of 12 months;
- (ii) Subject to the Council's Standard Conditions, but excluding Standard Condition No. 12; and
- (iii) An additional condition be added to the consent restricting any advertising signage being placed within the vicinity of the A590.

The meeting closed at 2.57 p.m.

BOROUGH OF BARROW-IN-FURNESS
LICENSING REGULATORY COMMITTEE

Special Meeting: Thursday 13th August, 2015
at 9.00 a.m. (Drawing Room)

PRESENT:- Councillors Callister (Chairman), Seward (Vice-Chairman), Biggins, Bleasdale, Derbyshire, Maddox, Opie, Proffitt, C. Thomson and Wall.

Also present were:-

Barrow Borough Council

Anne Pearson (Environmental Health Manager)
Richard Garnett (Principal Environmental Health Officer)
Matthew Brash (Retained Veterinary Consultant)
Jane Holden (Acting Principal Legal Officer)
Paul O'Donnell (Retained Solicitor)
Sharron Rushton (Democratic Services Officer)
Paula Westwood (Democratic Services Officer – Member Support)

13 – The Local Government Act, 1972 as amended by the Local Government (Access to Information) Act, 1985 and Access to Information (Variation) Order 2006

Discussion arising hereon it was

RESOLVED:- That under Section 100A(4) of the Local Government Act, 1972 the public and press be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 7 (Minute No. 15) of Part One of Schedule 12A of the said Act.

14 – Apologies for Absence/Attendance of Substitute Members

Apologies for absence were received from Councillors Graham, Health and W. McClure. Councillor C. Thomson had attended as a substitute for Councillor Graham.

15 – Zoo Licensing Act 1981 (as amended) - David Stanley Gill, South Lakes Safari Zoo Ltd (formerly South Lakes Wild Animal Park Ltd) Compliance with Licence Conditions and Direction Order Special Inspections – 11th November, 2014, 26th February, 2015 and 23rd April, 2015

Mr David Stanley Gill holds a Zoo Licence issued on 8th June, 2010 to operate a Zoo at premises known as South Lakes Wild Animal Park, Crossgates, Dalton-in-Furness, Cumbria, LA15 8JR. He is the sole Director of the Zoo and the Licence is held in his name. On 15th January 2015 the premises changed names and is now South Lakes Safari Zoo Ltd (the Zoo).

On 1st July, 2014, the Licensing Regulatory Committee:-

- Added 11 conditions to the current Zoo Licence and removed existing conditions which were no longer appropriate.
- Agreed to serve a Direction Order in relation to the delivery of Veterinary Services.
- Deferred making a decision on a further proposed Direction Order relating to Animal Record Keeping.

The report detailed the findings of three Special Inspections carried out under the provisions of Section 11 of the Zoo Licensing Act 1981 (as amended) to assess:-

- compliance with the Licence Conditions;
- the served Direction Order; and
- the deferred Direction Order.

It also detailed several other matters that needed to be brought to the Committee's attention with regard to the Zoo's conduct. The Special Inspections took place on:-

- 11th November 2014;
- 26th February 2015; and
- 23rd April 2015.

Members had been requested to consider:-

- (i) Compliance with the Direction Order relating to Veterinary Care;
- (ii) The Deferred Direction Order in respect of Animal Record Keeping;
- (iii) Compliance with Condition Nos. 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29;
- (iv) Other matters raised during the inspections relating to Conditions 3, 8, 9 and 14; and
- (v) The removal of Conditions 13 and 15.

The Environmental Health Manager, Principal Environmental Health Officer and the Council's Retained Veterinary Consultant withdrew from the meeting on each occasion whilst the Committee conducted their decision making discussions.

RESOLVED:-

- (i) That the Committee record that the Direction Order relating to Veterinary Care (Condition 18) had been complied with;
- (ii) That the Committee record that the matters referred to in the Deferred Direction Order in relation to Animal Record Keeping (Condition 5) had been now been complied with and accepted the officer's application to withdraw their request for a Direction Order;
- (iii) That the Committee record the following in respect of compliance with Conditions added to the Zoo Licence in June/July 2014:-

- (a) Condition 19 – To agree that the Committee recognised the Zoo's improvement in this field but that the Licence Condition remained until further inspections deemed it suitable to be removed with an agreed compliance date of 1st December, 2015;
 - (b) Condition 20 – To agree that the Condition be reworded and split into 20(a) and 20(b) with compliance dates added for each, 20(a) within 14 days and 20(b) 1st May 2016;
 - (c) Condition 21 – To agree that the Condition be replaced with the wording as set out in the Officer's report, that a new compliance date be set as 13th November 2015 and that a report would come back to this Committee to determine what remedial works were high, medium and low risk/priority;
 - (d) Condition 22 – To agree that the Condition had been complied with and should be removed upon renewal of the Zoo Licence;
 - (e) Condition 23 – To agree that the Condition remained on the Zoo Licence until the Police and Council believed it was appropriate for it to be removed. The timescale for reviewing the Condition was 1st December 2015 following the November Inspection;
 - (f) Condition 24 – To agree that the Condition should be removed upon renewal of the Zoo Licence;
 - (g) Condition 25 – To agree that a Direction Order be served for non-compliance with the Condition with a compliance date of 16th November 2015. ;
 - (h) Condition 26 – To agree that the Condition be removed upon renewal of the Zoo Licence;
 - (i) Condition 27 – To agree that the Condition be removed upon renewal of the Zoo Licence;
 - (j) Condition 28 – To agree that the Condition remained on the Licence with the Zoo demonstrating a development of the Policy over the next 12 months. Compliance date 13th August 2016;
 - (k) Condition 29 – To agree that the Condition be escalated to a Direction Order requiring compliance by 30th September 2015.
- (iv) That the Committee record the following in respect of other matters raised during the inspections:-
- (a) Condition 3 – To note that the matter would be considered during the renewal process;
 - (b) Condition 8 – To note that this Condition was a standard condition of the Zoo Licence and that the Zoo were in compliance with the Condition;

- (c) Condition 9 – To note that the Zoo had breached this Condition and to agree that Officers write to the Zoo on behalf of the Committee to state that future breaches of this Condition would be considered for prosecution under the Zoo Licensing Act 1981 Section 19(2);
- (d) Condition 14 – To note that the Zoo had breached this Condition and to agree that Officers to write to the Zoo on behalf of the Committee to state that future breaches would be considered for prosecution under the Zoo Licensing Act 1981 Section 19(2);
- (v) To agree that Conditions 13 and 15 would be removed upon renewal of the Zoo Licence.

The meeting closed at 2.50 p.m.

LICENSING REGULATORY COMMITTEE

Date of Meeting: 3rd September, 2015

Reporting Officer: Principal Environmental Health Officer

**(D)
Agenda
Item
7**

Title: Zoo Licensing Act 1981 (as amended)

Application/Renewal Fee setting for the Zoo Licence 2015/16

Summary & Purpose of the Report

Barrow Borough Council is responsible for administering a range of licences and approvals resulting from both national legislation and discretionary functions that are agreed locally. For the majority of these regimes the costs are recovered through fees set by each council and paid by the licence applicant. Locally set fees are a vital means of ensuring that costs can be recovered by each and every council, rather than relying on subsidy from local tax payers.

The Council is enabled by Section 15(1)(a) Zoo Licensing Act 1981 to charge such reasonable fees as they may determine in respect of applications for the grant, renewal, alteration, or transfer of licences.

This report seeks Members' approval of:-

An application fee for all new Zoo Licences and renewals of £500.

Background

Barrow Borough Council is responsible for administering a range of licences, permits and registrations resulting from both national legislation and discretionary functions that are agreed locally. In most cases the costs incurred by Councils in administering and sometimes enforcing these regimes can be recovered through fees set by each council. Locally set fees are a vital means of ensuring that costs can be recovered by Councils, rather than relying on local tax payers subsidising licence holders.

The basis in setting such fees is generally to ensure full cost recovery, or as close to it as possible. Numerous legal cases over the years have confirmed that licensing fees may not be used to generate a profit for councils, and that fees should be reviewed regularly (generally annually) to ensure that neither a significant surplus nor deficit is created. Surpluses or deficits are to be carried forward to future years to be redistributed or recouped, as applicable.

Many licensing schemes fall within the definition of 'services', under the EU Services Directive, as incorporated by the Provision of Services Regulations 2009. For such schemes, fees and charges must "be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities". The recent case of R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council has examined this issue, and

confirmed that fees must reflect administrative and compliance costs, but cannot include the costs of enforcement action against unlicensed operators

Zoo Licensing Act 1981 – Fees and Charges

The Council is enabled by Section 15(1)(a) of the Zoo Licensing Act 1981 to charge a fee for the application and renewal of a licence. Further, under Section 15(5) the Local Authority shall secure that the amount of all fees ... is sufficient to cover the reasonable expenditure incurred... Section 15 is attached in full at **Appendix 1**

Officers have prepared a document attached at **Appendix 2** which demonstrates the methodology behind setting the application / renewal fee for a Zoo licence.

It is proposed that the fees for 2015/16 be:

- An application fee of £500 for any application received in 2015/16 for a new licence or the renewal of an existing licence

Public consultation

A public consultation has been carried out in the North West Evening Mail, the proposals were also available to view at the Town Hall and on the Council's website.

No specific responses were received regarding the application fee.

Recommendation

Members are asked to consider the report and set the following fees for 2015/16

A locally set fee for all applications relating to zoo licensing set at £500

Reason for Recommendations

The Zoo Licensing Act 1981 requires the Local Authority to recover all reasonable expenditure.

Options

The options available to members are: -

- 1 Set the above mentioned Application Fee which represents full cost recovery.
- 2 Set an Application Fee at a lower rate achieving only partial cost recovery. However this would be contrary to the Zoo Licensing Act 1981
- 3 Reject the Application Fee achieving no recovery of costs. However this would be contrary to the Zoo Licensing Act 1981

Considerations

(i) Legal Implications

Zoo Licensing Act 1981

Section 15 Fees and other charges.

- (1) Subject to this section, the local authority may charge such reasonable fees as they may determine in respect of—
 - (a) applications for the grant, renewal or transfer of licences;
 - (b) the grant, renewal, alteration or transfer of licences;

- (5) The local authority shall secure that the amount of all the fees and other sums charged by them under this section in a year is sufficient to cover the reasonable expenditure incurred by the authority in the year by virtue of this Act.

Tourism activities are covered by the European Services Directive and The Provisions of Services Regulations 2009 transpose the EU Services Directive into UK legislation.

The Council have also taken into account guidance issued by the Local Government Association [LGA] entitled "Open for business – LGA guidance on locally set fees" [LGA, 2014]

(ii) Risk Assessment

The Council may face review if a complaint is received that the Council is not passing the full cost of a licence where the legislation allows resulting in the tax payer subsidising businesses

(iii) Financial Implications

The Council have calculated that the true cost of an application or renewal is £500 and those costs are not recoverable under any other mechanism.

(iv) Key Priorities or Corporate Aims

None identified

(v) Equality and Diversity

Not applicable

(vi) Other Human Rights

Not applicable

(vii) Health and Well-being Implications

None identified

Background Papers

None

APPENDIX 1

The Council is enabled by the Zoo Licensing Act 1981 to charge fees in respect of a zoo licence. The relevant section is Section 15.

Section 15 Fees and other charges.

- (1) *Subject to this section, the local authority may charge such reasonable fees as they may determine in respect of—*
 - (a) *applications for the grant, renewal or transfer of licences;*
 - (b) *the grant, renewal, alteration or transfer of licences;*
- (2) *Any fee charged under paragraph (a) of subsection (1) in respect of an application shall be treated as paid on account of the fee charged under paragraph (b) on the grant, renewal or transfer applied for.*
- (2A) *Subject to this section, the authority may charge to the operator of the zoo such sums as they may determine in respect of reasonable expenses incurred by them—*
 - (a) *in connection with inspections in accordance with section 9A and under sections 10 to 12;*
 - (b) *in connection with the exercise of their powers to make directions under this Act;*
 - (c) *in the exercise of their function under section 16E(4) of supervising the implementation of plans prepared under section 16E(2); and*
 - (d) *in connection with the exercise of their function under section 16E(7) or (8).*
- 2B) *The authority's charge under subsection (2A)(d) shall take into account any sums that have been, or will fall to be, deducted by them from a payment under section 16F(7) in respect of their costs.*
- (3) *In respect of any fee or other sum charged under this section, the local authority may, if so requested by the operator, accept payment by installments.*
- (4) *Any fee or other charge payable under this section by any person shall be recoverable by the local authority as a debt due from him to them.*
- (5) *The local authority shall secure that the amount of all the fees and other sums charged by them under this section in a year is sufficient to cover the reasonable expenditure incurred by the authority in the year by virtue of this Act.*

Legislative Background

An **Application Fee** will be charged upon the initial application for a zoo licence or an application for the renewal of an existing licence.

The Government have published statutory guidance entitled “Zoo Licensing Act 1981, Guide to the Act’s Provisions” [DEFRA 2012]. Section 19 of this guidance requires the Council to limit the cost burden to the Zoo and to ensure that the costs are reasonable.

The Council have also taken into account guidance issued by the Local Government Association [LGA] entitled “Open for business - LGA guidance on locally set fees” [LGA, 2014] and The European Services Directive.

Cost Setting

Initial application costs will include: -

- Basic office administration to process the licence application, including specialist software.
- Initial visit(s) – Officer time
- Third party costs, for example veterinary attendance during licensing inspections
- Liaison with interested parties – engaging with responsible authorities
- Management costs
- Local democracy costs – committee hearings
- On costs
- Development, determination and production of licensing policies
- Web material
- Advice and guidance
- Setting and reviewing fees

The application fee is presented in **Appendix A**

Application Fee

Type of Licence	Est. yearly average no. of licences issues last 3 years (2010-2013)	Activity Log ** base price per licence	Support services costs per licence	Support Services Authority Costs	Direct staff costs per licence general - Training - Meetings - Compliance and monitoring	Total licence fee per unit	Licence Fee Rounded to nearest £
New/renewal of Zoo Licence	1	£469.55*	£11.35	£19.54	£24.62	£500.44	£500.00

* Direct staff costs take account of recent departmental reorganisation.

** Activity log shown overleaf

Activity Log

No.	Task and type of activity	Officer time spent	Officer duty	Hourly Rate	Cost
	Pre-application process and general queries				
1	Queries from applicant	1 hour	Principal EHO	25.37	25.37
	Application received				
2	Receive application/renewal, and fee handling. Send invoice and/or receipt.	30 mins	Admin Assistant	15.57	7.79
3	Consider application/renewal. Updated premises database, scanning documents and preparing inspection documents. Checking history/compliance.	5 hours	Principal EHO	25.37	126.85
4	Travel to establishment (return)	40 mins	Principal EHO	25.37	16.91
5	Assessment: on-site inspection	5 hours	Principal EHO	25.37	126.85
	Consultation and dealing with representation				
6	Dealing with representations	4 hours	Principal EHO	25.37	101.48
	Post-Committee process				
7	Advise applicant of outcome	30 mins	Principal EHO	25.37	12.69
8	Advise objectors/representatives of decision	30 mins	Principal EHO	25.37	12.69
9	Press and elected Member enquiries	20 mins	Principal EHO	25.37	8.46
10	Update database	20 mins	Admin Assistant	15.57	5.19
11	Follow-up letter to applicant with licence and conditions	1 hour	Principal EHO	25.37	25.37
Total		18hrs 50mins			£469.55

LICENSING REGULATORY COMMITTEE	Part One (R) Agenda Item 8
Date of Meeting: 3rd September, 2015	
Reporting Officer: Principal Environmental Health Officer	
<p>Title: Zoo Licensing Act 1981 (as amended) Policy For Fee Setting Applicable to all Zoo Licences</p> <p>Summary</p> <p>Barrow Borough Council is responsible for administering a range of licences and approvals resulting from both national legislation and discretionary functions that are agreed locally. For the majority of these regimes the costs are recovered through fees set by each council and paid by the licence applicant. Locally set fees are a vital means of ensuring that costs can be recovered by each and every council, rather than relying on subsidy from local tax payers.</p> <p>The Council is enabled by Section 15 Zoo Licensing Act 1981 to charge fees and other charges in respect of a zoo licence. The recent case of R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council has examined this issue, and confirmed that fees must reflect administrative and compliance costs, but cannot include the costs of enforcement action against unlicensed operators</p> <p>Purpose</p> <p>This report recommends that Members approve the policy only attached at Appendix 1 and to recommend to the Executive Committee to recommend that the Council adopt the policy.</p> <p>NB- It is not the purpose of this report to set the actual fees.</p>	

Background

Barrow Borough Council is responsible for administering a range of licences, permits and registrations resulting from both national legislation and discretionary functions that are agreed locally. In most cases the costs incurred by Councils in administering and sometimes enforcing these regimes can be recovered through fees set by each council. Locally set fees are a vital means of ensuring that costs can be recovered by Councils, rather than relying on local tax payers subsidising licence holders.

The basis in setting such fees is generally to ensure full cost recovery, or as close to it as possible. Numerous legal cases over the years have confirmed that licensing fees may not be used to generate a profit for councils, and that fees should be reviewed regularly (generally annually) to ensure that neither a significant surplus nor deficit is created. Surpluses or deficits are to be carried forward to future years to be redistributed or recouped, as applicable.

Many licensing schemes fall within the definition of 'services', under the EU Services Directive, as incorporated by the Provision of Services Regulations 2009. For such schemes, fees and charges must "be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities". The recent case of R (on the application of Hemming (t/a Simply Pleasure Ltd)) v Westminster City Council has examined this issue, and confirmed that fees must reflect administrative and compliance costs, but cannot include the costs of enforcement action against unlicensed operators

Zoo Licensing Act 1981 – Fees and Charges

The Council is enabled by Section 15 Zoo Licensing Act 1981 to charge fees and other charges in respect of a zoo licence. In addition to regular inspections there are a number of other cost implications, such as administering the licence, enforcing licence conditions, preparing committee reports, and considering emerging issues, which are currently unrecovered.

Officers have prepared a document attached **at Appendix 1** which demonstrates the methodology behind setting the zoo licence fee.

The Owner of a Zoo will be charged

- An application fee which is payable when an application is lodged with the Council. This will be the administrative costs of processing an application for an initial licence renewal, alteration or transfer.
- A Maintenance fee which will become payable before the grant of the licence and will then be charged annually on the anniversary of the grant. The Maintenance fee will be kept under review and set annually based on the work undertaken in the previous year to ensure that fees set remain reasonable and proportionate.

NB For Members' information, it is not the purpose of this report to set the actual fees. The Application Fee is being set in an additional report before the Committee today and the Licensing Regulatory Committee already has authority to do this. However it has been necessary to include the application fee in this policy because it needs to include all aspects of the application and

renewal of a zoo licence. If the policy is accepted then a Maintenance Fee will be brought back to this Committee for approval at a later date.

The Policy has been subject to a 14 day consultation period. The consultees were: -

- DEFRA
- Allerdale Borough Council
- Carlisle City Council
- Copeland Borough Council
- Eden District Council
- South Lakeland District Council
- South Lakes Safari Zoo Ltd

An advert was also placed in the North West Evening Mail and full consultation details made available on the Council's website inviting representations.

All responses received have been included **in Appendix 2.**

South Lakes Safari Zoo Ltd was the only consultee to comment on the policy and have made the following points and their comments are in bold when needed to place their comments in context.

1. Preamble Paragraph 2, Page 2 of the policy document (appendix 1)

The intention of this policy is to set out how the Council will recover the cost of enforcing the Zoo Licensing Act 1981 from those premises that are required to hold a licence. The presence of this policy is in order to promote transparency, fairness and consistency. **It is acknowledged that there is only one Zoo business operating in the Council's area of authority and it is further recognised that relations between the owner of that business and the Council have not always been harmonious. The Council is committed to ensuring that its application of this policy is fair and proportionate and free of any taint of bias and that the Council acts in a manner consistent with other local authorities who administer licences and approvals for Zoo businesses.**

Officer Comment

The policy statement is a statement of intent from the Council on how it aims to treat all premises that hold a Zoo Licence. The relationship between the Council and South Lakes Safari Zoo, either past or present, is not a matter for the policy document.

The Zoo Licensing Act 1981 Section 15(5) states that the local authority shall secure that the amount of all the fees and other sums charged by them under this section in a year is sufficient to cover the reasonable expenditure incurred by the authority in the year by virtue of this Act.

In order to promote transparency, fairness and consistency the charges must be reasonable and proportionate to the cost of the processes associated with the licensing scheme. The department has canvassed other authorities but few are operating a regime of full cost recovery for licensing and fewer still have Zoos of an equivalent complexity.

Recommendation

That this wording is not included in the policy

Reason for Recommendation

This is a general policy statement; it is not targeted at a single premises and will be the basis of the fee structure for any zoo that opens in the district. Therefore to tie the policy into one premises is not appropriate

Options

The options available to Members are:-

- Accept the officer's recommendation that the wording is not altered
- Reject the officer's recommendation and include the amendment
- Reject the officer's recommendation and include suitable wording.

2. Preamble Paragraph 3, Page 2 of the policy document (appendix 1)

The Zoo Owner shall be charged

A **reasonable and proportionate** application fee ...

A **reasonable and proportionate** Maintenance fee ...

The insertion of the words **reasonable and proportionate** has also been made at Section 4 Page 3 under **Legislative Background** within the consultation reply

Officer Comment

The costs of both the application fee and the maintenance fee together with the method of calculation are attached within Appendix 1 and are transparent and subject to annual review. The Act already requires that expenditure is reasonable.

The costs centers being charged have been subject to legal scrutiny and the times of officers subjected to internal review.

Recommendation

It is not proposed to include this wording

Reason for the Recommendation

The legislation already requires the fees charged to be reasonable but the aim of this Policy, if accepted, is to achieve full cost recovery and therefore adding the word "proportionate" will suggest that full fee recovery is not achievable.

Options

The options available to Members are:-

- Accept the officer's recommendation that the wording is not altered
- Reject the officer's recommendation and include the amendment
- Reject the officer's recommendation and include suitable wording.

3. Preamble Paragraph 4, Page 2 of the policy document (appendix 1)

Charges must be reasonable and proportionate to the cost of the processes associated with the licensing scheme **and having regard to the provisions of the second paragraph above.**

Officer Comment

The second paragraph states that the presence of the policy is in order to promote transparency, fairness, and consistency. There is no need to repeat the aim through the course of the policy statement.

Recommendation

It is not proposed to include this wording

Reason for Recommendation

The wording does not strengthen the terms of the policy.

Options

The options available to Members are:-

- Accept the officer's recommendation that the wording is not altered
- Reject the officer's recommendation and include the amendment
- Reject the officer's recommendation and include suitable wording.

4. Purpose, Section 2 Page 3 of the policy document (appendix 1)

It is intended to provide a proportionate, fair and transparent approach to the recovery of costs from those persons or companies who are required to hold a licence under the Act, and remove the burden from Council's finances and ultimately local taxpayers **whilst not penalising Zoo businesses**.

Officer Comments

The Hemmings case has impliedly made it clear that local authorities should not be subsidising licensed trades and should be attempting to recover costs of management and enforcement. The Council has a duty not to use general funds to subsidise the business activities of a licensing business.

The current fees do not recover the costs incurred by the Council in the administration and enforcement of the licences issued under the Zoo Licensing Act 1981.

Recommendation

It is not proposed to include this wording

Reason for Recommendation

The wording does not strengthen the terms of the policy.

Options

The options available to Members are:-

- Accept the officer's recommendation that the wording is not altered
- Reject the officer's recommendation and include the amendment
- Reject the officer's recommendation and include suitable wording.

5. The Policy Section 5 Page 4 of the policy document (appendix 1)

The recovery of the costs incurred by the Council for the administration of zoo licensing works shall:

- (a) Where possible, be sought from the applicant or licence holder.
- (b) Be recovered in full where reasonable.
- (c) Be as fair and equitable as possible to all who may otherwise have to meet the costs of including national and local taxpayers **but also the Zoo businesses, which the Council recognises provide a very significant source of tourist and other income for the Furness area.**

Officer Comments

The comments added do not advance the statement made within the Policy.

Recommendation

It is not proposed to include this wording

Reason for Recommendation

The wording does not advance the terms of the policy.

Options

The options available to Members are:-

- Accept the officer's recommendation that the wording is not altered
- Reject the officer's recommendation and include the amendment
- Reject the officer's recommendation and include suitable wording.

6. Cost Setting Section 6 Page 4 of the policy document (appendix 1)

The Maintenance Fee will include:-

- Third party costs,
- Liaison with interested parties
- Liaison with Central Government
- Management Costs
- Local democracy costs – committee hearings
- On costs
- Advice and guidance **relating to those matters which may properly be charged to Zoo businesses pursuant to legislation**
- **Relevant training** of staff and members

Officer Comments

There is no objection to this change.

Recommendation

This wording can be changed to include this wording

Reason for Recommendation

The wording strengthens the policy and will reassure the licence holder that all chargeable coats have been duly considered

Options

The options available to Members are:-

- Accept the officer's recommendation and include the amendment
- Reject the officer's recommendation and direct that the wording is not altered
- Reject the officer's recommendation and include suitable wording.

7. Variation in Maintenance Costs Section 7 Page 5 of the policy document (appendix 1)

The annual maintenance fee will be based on cost recovery for the time spent in the previous 12 months if those figures are available. Therefore, if the level of compliance of a zoo is high then the corresponding reduction in the maintenance fee will reflect this.

Both the application and the maintenance fee will be set only after consultation with Zoo businesses. The Council will give due regard to any representations made by Zoo businesses and shall afford Zoo businesses a means of appeal or redress if there are any disputes over the level of fees charged.

Officer Comments

The Council will consult with Zoo businesses before a fee is set through this policy. The fees are set by this Committee and therefore there is always a further opportunity for the Zoo to be heard.

There is no formal method of appeal against a fee set.

Any person could request a judicial review if the fees were thought to be unlawful and similarly could request that the matter be referred to the Council's Auditors.

Recommendation

1. To include a requirement for the Officers to consult on the zoo licence fees
2. Not to include a method of appeal as one is not set in statute

Reason for Recommendation

In order to achieve fairness and transparency any zoo should have the ability to comment on the fee being set.

As there is no statutory method of appeal against the fees it is incorrect to state anything other in the policy

Options

The options available to Members are:-

- Accept the officer's recommendation and include the amendment regarding consulting on fees only
- Reject the officer's recommendation and direct that the wording is not altered
- Reject the officer's recommendation and include suitable wording.

8. Method of Fee Calculation

In the consultation a Maintenance Fee together with the calculation method was produced. The calculation method and final fee is not part of the policy. The Zoo, have stated that **Making the zoo pay for the cost of legal advice relating to issues with the zoo is outwith the permitted framework.**

Officer Comment

Setting of the actual application and maintenance fees is not the purpose of this report which is considering the policy only.

Recommendations

- That members note the Zoo's comments at this time.

Considerations

(i) Legal Implications

Zoo Licensing Act 1981

Section 15 Fees and other charges.

- (1) Subject to this section, the local authority may charge such reasonable fees as they may determine in respect of—
 - (a) applications for the grant, renewal or transfer of licences;
 - (b) the grant, renewal, alteration or transfer of licences;
- (5) The local authority shall secure that the amount of all the fees and other sums charged by them under this section in a year is sufficient to cover the reasonable expenditure incurred by the authority in the year by virtue of this Act.

Tourism activities are covered by the European Services Directive and The Provisions of Services Regulations 2009 transpose the EU Services Directive into UK legislation.

The Council have also taken into account guidance issued by the Local Government Association [LGA] entitled "Open for business – LGA guidance on locally set fees" [LGA, 2014]

(ii) Risk Assessment

The Council may face review if a complaint is received that the Council is not passing the full cost of a licence were the legislation allows resulting in the Council effectively subsidising businesses.

Whilst there is no direct appeal against a fee being set under the Zoo Licensing Act 1981, the Council could be held to account through Judicial Review, if the charges are unlawful. A complaint could also be made through the Council's Audit process.

(iii) Financial Implications

The Council costs regarding the current enforcement of the Zoo licence are not recoverable under any other mechanism. Therefore money that cannot be recover will have an effect on the general fund

(iv) Key Priorities or Corporate Aims

Service Delivery – the Council strives to provide good quality, efficient and effective services while reducing overall expenditure.

(v) Equality and Diversity

Not applicable

(vi) Other Human Rights

Not applicable

(vii) Health and Well-being Implications

None identified

Background Papers

Nil



**POLICY FOR RECHARGING ZOO LICENSING
FEES WITHIN BARROW BOROUGH COUNCIL**

Version Control:	
Document Name:	Zoo Recharging Policy
Version:	150730.1
Author:	Principal Environmental Health Officer (Commercial)
Review Date:	July 2016

Preamble

Barrow Borough Council is responsible for administering a range of licences and approvals resulting from both national legislation and discretionary functions that are agreed locally. For the majority of these regimes the costs are recovered through fees set by each council and paid by the licence applicant. Locally set fees are a vital means of ensuring that costs can be recovered by each and every council, rather than relying on subsidy from local tax payers

The intention of this policy is to set out how the Council will recover the cost of enforcing the Zoo Licensing Act 1981 from those premises that are required to hold a licence. The presence of this policy is in order to promote transparency, fairness and consistency.

The owner of a Zoo will be charged:

- An application fee which is payable when an application is lodged with the Council. This will be the administrative costs of processing an application for an initial licence renewal, alteration or transfer.
- A Maintenance fee which will become payable before the grant of the licence and will then be charged annually on the anniversary of the grant. The Maintenance fee will be kept under review and set annually based on the work undertaken in the previous year to ensure that fees set remain reasonable and proportionate.

Charges must be reasonable and proportionate to the cost of the processes associated with the licensing scheme. This policy will set out the process adopted by Barrow Borough Council to ensure will achieve this.

1 Introduction

This 'Statement of Policy' sets out Barrow Borough Council's (hereafter referred to as the "Council") position in regards to the setting of the licence fee, both in terms of application and maintenance elements. The policy is based on the relevant sections of the primary legislation which is the Zoo Licensing Act 1981 (as amended) ("the Act"), in particular Section 15 and The European Services Directive.

The policy will also consider any associated statutory guidance.

2 Purpose

The purpose of this policy is to clearly set out how the Council will set fees it may charge in relation to any application, renewal, alteration or transfer under the Act.

It is intended to provide a proportionate, fair and transparent approach to the recovery of costs from those persons or companies who are required to hold a licence under the Act, and remove the burden from Council's finances and ultimately local taxpayers.

3 Scope

Section 1 of the Zoo Licensing Act 1981 defines those premises that are required to hold a licence.

Section 1(2) In this Act "zoo" means an establishment where wild animals ... are kept for exhibition to the public otherwise than for purposes of a circus (as so defined) and otherwise than in a pet shop (as so defined); and this Act applies to any zoo to which members of the public have access, with or without charge for admission, on more than seven days in any period of 12 consecutive months

Section 1(2B) This Act also applies in accordance with its terms to any zoo to which members of the public do not have such access if a licence is in force in respect of it or as otherwise provided (in particular, in sections 13 and 16C to 16G).

This policy will be applied to any premises that are required to hold a licence under this Act.

4 Legislative Background

The Council is enabled by the Zoo Licensing Act 1981 to charge fees in respect of a zoo licence. The relevant section is Section 15 and this is reproduced in Appendix 3.

This policy establishes two charges:

- An **Application Fee** will be charged upon the initial application for a zoo licence, an application for the renewal of an existing licence, or the transfer of a zoo licence.
- A **Maintenance Fee** will be charged on the application being successful and will be payable before the grant of the licence. Whilst the zoo licence runs for a 6 year period the Maintenance Fee will be calculated annually and charged on the anniversary of the licence being issued.

The Government have published statutory guidance entitled “Zoo Licensing Act 1981, Guide to the Act’s Provisions” [DEFRA 2012]. Section 19 of this guidance requires the Council to limit the cost burden to the Zoo and to ensure that the costs are reasonable.

The Council have also taken into account guidance issued by the Local Government Association [LGA] entitled “Open for business - LGA guidance on locally set fees” [LGA, 2014] and The European Services Directive.

5 The Policy

As with other licences the Council incurs expense through the application process and subsequently monitoring for compliance.

The Zoo Licensing Act allows the Council to recoup the expenses of inspections but costs of preparing for Committee hearings, seeking legal advice on compliance issues, and training staff to administer the various aspects of the licence, etc. creates an expense that is currently born by general funds.

In the case *R (on the application of Hemmings and Others) v Westminster City Council* [2015] UKSC 25 the judgement made it clear that local authorities should not be subsidising licensed trades and should be attempting to recover costs of management and enforcement. Put simply, the Council has a duty to it’s’ citizens not to be using general funds to subsidise the business activities of a licensed business.

The recovery of the costs incurred by the Council for the administration of zoo licensing works shall:

- (a) Where possible, be sought from the applicant or licence holder.
- (b) Be recovered in full where reasonable.

- (c) Be as fair and equitable as possible to all who may otherwise have to meet the costs of including national and local taxpayers.

6 Cost Setting

Initial application costs will include: -

- Basic office administration to process the licence application, including specialist software.
- Initial visit(s) – Officer time
- Third party costs, for example veterinary attendance during licensing inspections
- Liaison with interested parties – engaging with responsible authorities
- Management costs
- Local democracy costs – committee hearings
- On costs
- Development, determination and production of licensing policies
- Web material
- Advice and guidance
- Setting and reviewing fees

The current application fee is presented in Appendix 1

The Maintenance Fee will include:-

- Third party costs, for example seeking expert veterinary attendance other than during formal, informal, or special inspections
- Liaison with interested parties
- Liaison with Central Government
- Management costs
- Local democracy costs – committee hearings
- On costs
- Advice and guidance
- Training of staff and members

The calculated maintenance fee for 2015/16 is presented in Appendix 2

7 Variation in Maintenance Costs

The Zoo Licence runs for a 6 year period. The Council has considered the fairness and reasonableness of setting a fee which covers the 6 year period.

Fees must not exceed the cost of administering the licensing regime and should be cost neutral so that over the lifespan of the licence the budget should balance.

Reviewing the on-going running and compliance costs annually allows the Council to avoid a surplus or deficit in future years. If a licence fee was payable for the licence period of 6 years, current licence holders would not benefit from a review showing a surplus. Similarly a review highlighting a deficit, could financially harm an otherwise viable business if on renewal the fee increased significantly. An annual review would allow the fee to be adjusted more appropriately and fairly throughout the duration of the licence.

On this basis it is not considered reasonable to charge a full 6 year maintenance fee at the start of the licence period. It has been decided that the maintenance fee will be calculated on an annual basis and charged on the anniversary of the licence being granted.

The annual maintenance fee will be based on cost recovery for the time spent in the previous 12 months if those figures are available. Therefore, if the level of compliance of a zoo is high then the corresponding reduction in the maintenance fee will reflect this.

8 Review of Licencing Costs

Both the application fee and the maintenance fee will be reviewed on an annual basis.

Appendix 1

Application Fee

Type of Licence	Est. yearly average no. of licences issues last 3 years (2010-2013)	Activity Log ** base price per licence	Support services costs per licence	Support Services Authority Costs	Direct staff costs per licence general - Training - Meetings - Compliance and monitoring	Total licence fee per unit	Licence Fee Rounded to nearest £
New/renewal of Zoo Licence	1	£469.55*	£11.35	£19.54	£24.62	£525.06	£525.00

* Direct staff costs take account of recent departmental reorganisation.

** Activity log shown overleaf

Activity Log

No.	Task and type of activity	Officer time spent	Officer duty	Hourly Rate	Cost
	Pre-application process and general queries				
1	Queries from applicant	1 hour	Principal EHO	25.37	25.37
	Application received				
2	Receive application/renewal, and fee handling. Send invoice and/or receipt.	30 mins	Admin Assistant	15.57	7.79
3	Consider application/renewal. Updated premises database, scanning documents and preparing inspection documents. Checking history/compliance.	5 hours	Principal EHO	25.37	126.85
4	Travel to establishment (return)	40 mins	Principal EHO	25.37	16.91
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	Consultation and dealing with representation				
6	Dealing with representations	4 hours	Principal EHO	25.37	101.48
	Post-Committee process				
7	Advise applicant of outcome	30 mins	Principal EHO	25.37	12.69
8	Advise objectors/representatives of decision	30 mins	Principal EHO	25.37	12.69
9	Press and elected Member enquiries	20 mins	Principal EHO	25.37	8.46
10	Update database	20 mins	Admin Assistant	15.57	5.19
11	Follow-up letter to applicant with licence and conditions	1 hour	Principal EHO	25.37	25.37
Total		18hrs 50mins			£469.55

Appendix 2

Annual Maintenance Fee (based on 2014/2015)

Officer	Hours**		Rate		Total
Acting Principal Legal Officer [from July 2014]	23.5		23.84		£560.24
Environmental Health Manager	68.8		31.33		£2,155.50
Principal Environmental Health Officer [from August 2014]	35		25.37		£887.95
Senior Environmental Health Officer	5		22.24		£111.20
Acting Senior Environmental Health Officer	3		35		£105.00
External Legal Advisor*	50		140		£7,000.00
					£10,819.89
Support Costs					
Office General Running Costs (15-16 Budget) Proportion attributed to Zoo Licensing £0.50hr ⁻¹ ***			£4,450		£67.65
Support Staff Costs (15-16 Budget) Proportion attributed to Zoo Licensing £4.27hr ⁻¹ ***			£39920		£577.73
Cost of Licensing Committees Zoo is 1 of 991 licences			£1,886.28		£1.90
Total in 2014 - 2015					£11,467.17****

* The Council's external Legal advisor has invoice 78 hours for Zoo work during the financial year 2014/15. However he has provided advice on a range of topics that surround the Council's ability to enforce the Zoo Licensing Act 1981 and to interpret guidance. Therefore 50 hours will be recharged

** The time attributed to each officer is the time spent in meetings because the Council do not operate a full cost allocation policy. Therefore time spent in preparation for meetings, and for writing letters, etc. is not accounted for.

*** Departments man hours to deal with all Licencing 8,878.08 hrs.

Officer time spent on Zoo Licensing = 135.3 hrs.

Office Costs = £0.50hr⁻¹ Support Costs = £4.27hr⁻¹

**** The costs of formal and special inspections, including preparation and report writing is chargeable separately

CONSULTATION RESPONSE BY SOUTH LAKES SAFARI ZOO

The Zoo's comments are underlined in the following document.

Preamble

Barrow Borough Council is responsible for administering a range of licences and approvals resulting from both national legislation and discretionary functions that are agreed locally. For the majority of these regimes the costs are recovered through fees set by each council and paid by the licence applicant. Locally set fees are a vital means of ensuring that costs can be recovered by each and every council, rather than relying on subsidy from local tax payers

The intention of this policy is to set out how the Council will recover the cost of enforcing the Zoo Licensing Act 1981 from those premises that are required to hold a licence. The presence of this policy is in order to promote transparency, fairness and consistency. It is acknowledged that there is only one Zoo business operating in the Council's area of authority and it is further recognised that relations between the owner of that business and the Council have not always been harmonious. The Council is committed to ensuring that its application of this policy is fair and proportionate and free of any taint of bias and that the Council acts in a manner consistent with other local authorities who administer licences and approvals for Zoo businesses.

The owner of a Zoo will be charged:

- A reasonable and proportionate application fee which is payable when an application is lodged with the Council. This will be the administrative costs of processing an application for an initial licence renewal, alteration or transfer.
- A reasonable and proportionate Maintenance fee which will become payable before the grant of the licence and will then be charged annually on the anniversary of the grant. The Maintenance fee will be kept under review and set annually based on the work undertaken in the previous year to ensure that fees set remain reasonable and proportionate.

Charges must be reasonable and proportionate to the cost of the processes associated with the licensing scheme and having regard to the provisions of the second paragraph, above. This policy will set out the process adopted by Barrow Borough Council to ensure will achieve this.

1 Introduction

This 'Statement of Policy' sets out Barrow Borough Council's (hereafter referred to as the "Council") position in regards to the setting of the licence fee, both in terms of application and maintenance elements. The policy is based on the relevant sections of the primary legislation which is the Zoo Licensing Act 1981 (as amended) ("the Act"), in particular Section 15 and The European Services Directive.

The policy will also consider any associated statutory guidance.

2 Purpose

The purpose of this policy is to clearly set out how the Council will set fees it may charge in relation to any application, renewal, alteration or transfer under the Act.

It is intended to provide a proportionate, fair and transparent approach to the recovery of costs from those persons or companies who are required to hold a licence under the Act, and remove the burden from Council's finances and ultimately local taxpayers whilst not penalising Zoo businesses.

3 Scope

Section 1 of the Zoo Licensing Act 1981 defines those premises that are required to hold a licence.

Section 1(2) In this Act "zoo" means an establishment where wild animals ... are kept for exhibition to the public otherwise than for purposes of a circus (as so defined) and otherwise than in a pet shop (as so defined); and this Act applies to any zoo to which members of the public have access, with or without charge for admission, on more than seven days in any period of 12 consecutive months

Section 1(2B) This Act also applies in accordance with its terms to any zoo to which members of the public do not have such access if a licence is in force in respect of it or as otherwise provided (in particular, in sections 13 and 16C to 16G).

This policy will be applied to any premises that are required to hold a licence under this Act.

4 Legislative Background

The Council is enabled by the Zoo Licensing Act 1981 to charge fees in respect of a zoo licence. The relevant section is Section 15 and this is reproduced in Appendix 3.

This policy establishes two charges:

- A reasonable and proportionate **Application Fee** will be charged upon the initial application for a zoo licence, an application for the renewal of an existing licence, or the transfer of a zoo licence.
- A reasonable and proportionate **Maintenance Fee** will be charged on the application being successful and will be payable before the grant of the licence. Whilst the zoo licence runs for a 6 year period the Maintenance Fee will be calculated annually and charged on the anniversary of the licence being issued.

The Government have published statutory guidance entitled “Zoo Licensing Act 1981, Guide to the Act’s Provisions” [DEFRA 2012]. Section 19 of this guidance requires the Council to limit the cost burden to the Zoo and to ensure that the costs are reasonable.

The Council have also taken into account guidance issued by the Local Government Association [LGA] entitled “Open for business - LGA guidance on locally set fees” [LGA, 2014] and The European Services Directive.

5 The Policy

As with other licences the Council incurs expense through the application process and subsequently monitoring for compliance.

The Zoo Licensing Act allows the Council to recoup the expenses of inspections but costs of preparing for Committee hearings, seeking legal advice on compliance issues, and training staff to administer the various aspects of the licence, etc. creates an expense that is currently born by general funds.

In the case *R (on the application of Hemmings and Others) v Westminster City Council* [2015] UKSC 25 the judgement made it clear that local authorities should not be subsidising licensed trades and should be attempting to recover costs of management and enforcement. Put simply, the Council has a duty to it’s’ citizens not to be using general funds to subsidise the business activities of a licensed business.

The recovery of the costs incurred by the Council for the administration of zoo licensing works shall:

- (a) Where possible, be sought from the applicant or licence holder.
- (b) Be recovered in full where reasonable.
- (c) Be as fair and equitable as possible to all who may otherwise have to meet the costs including national and local taxpayers but also the Zoo businesses, which the Council recognises provide a very significant source of tourist and other income for the Furness area.

6 Cost Setting

Initial application costs will include: -

- Basic office administration to process the licence application, including specialist software.
- Initial visit(s) – Officer time
- Third party costs, for example veterinary attendance during licensing inspections
- Liaison with interested parties – engaging with responsible authorities
- Management costs
- Local democracy costs – committee hearings
- On costs
- Development, determination and production of licensing policies
- Web material
- Advice and guidance
- Setting and reviewing fees

The current application fee is presented in Appendix 1

The Maintenance Fee will include:-

- Third party costs, for example seeking expert veterinary attendance other than during formal, informal, or special inspections
- Liaison with interested parties
- Liaison with Central Government
- Management costs
- Local democracy costs – committee hearings
- On costs
- Advice and guidance relating to those matters which may properly be charged to Zoo businesses pursuant to legislation
- Relevant training of staff and members

The calculated maintenance fee for 2015/16 is presented in Appendix 2

7 Variation in Maintenance Costs

The Zoo Licence runs for a 6 year period. The Council has considered the fairness and reasonableness of setting a fee which covers the 6 year period.

Fees must not exceed the cost of administering the licensing regime and should be cost neutral so that over the lifespan of the licence the budget should balance.

Reviewing the on-going running and compliance costs annually allows the Council to avoid a surplus or deficit in future years. If a licence fee was payable for the licence period of 6 years, current licence holders would not benefit from a review showing a surplus. Similarly a review highlighting a deficit could financially harm an otherwise viable business if on renewal the fee increased significantly. An annual review would allow the fee to be adjusted more appropriately and fairly throughout the duration of the licence.

On this basis it is not considered reasonable to charge a full 6 year maintenance fee at the start of the licence period. It has been decided that the maintenance fee will be calculated on an annual basis and charged on the anniversary of the licence being granted.

The annual maintenance fee will be based on cost recovery for the time spent in the previous 12 months if those figures are available. Therefore, if the level of compliance of a zoo is high then the corresponding reduction in the maintenance fee will reflect this.

Both the application and the maintenance fee will be set only after consultation with Zoo businesses. The Council will give due regard to any representations made by Zoo businesses and shall afford Zoo businesses a means of appeal or redress if there are any disputes over the level of fees charged.

8 Review of Licencing Costs

Both the application fee and the maintenance fee will be reviewed on an annual basis.

As with the initial fee, annual reviews of both the application and the maintenance fee will involve consultation with Zoo businesses. The Council will give due regard to any representations made by Zoo businesses and shall afford Zoo businesses a means of appeal or redress if there are any disputes over the level of fees charged

Appendix 3

Zoo Licensing Act 1981

Section 15 Fees and other charges.

- (1) Subject to this section, the local authority may charge such reasonable fees as they may determine in respect of—
 - (a) applications for the grant, renewal or transfer of licences;
 - (b) the grant, renewal, alteration or transfer of licences;
- (2A) Subject to this section, the authority may charge to the operator of the zoo such sums as they may determine in respect of reasonable expenses incurred by them—
 - (a) in connection with inspections in accordance with section 9A and under sections 10 to 12;
 - (b) in connection with the exercise of their powers to make directions under this Act;
 - (c) in the exercise of their function under section 16E(4) of supervising the implementation of plans prepared under section 16E(2); and
 - (d) in connection with the exercise of their function under section 16E(7) or (8).
- (3) In respect of any fee or other sum charged under this section, the local authority may, if so requested by the operator, accept payment by installments.
- (5) The local authority shall secure that the amount of all the fees and other sums charged by them under this section in a year is sufficient to cover the reasonable expenditure incurred by the authority in the year by virtue of this Act.