



Report of the Assistant Chief Executive (Corporate Governance)

LICENSING AND REGULATORY PANEL

Date: Tuesday 2nd September 2008

**Subject: Local Government (Miscellaneous Provisions) Act 1982
Licensing of Sex Establishments - Licence Fee Review**

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

Sex establishments, meaning a sex cinema or a sex shop are licensed under the Local Government (Miscellaneous Provisions) Act 1982. An applicant for the grant, renewal or transfer of a licence under the Act shall pay a reasonable fee determined by the appropriate authority.

Recent representation has been received from the trade who consider that the current charges are excessive and provide a comparison to the fees set by regulations under the Licensing Act 2003.

The current charges were set in 1999. It is accepted that in more recent years the administrative and enforcement duties associated with such establishments have declined. Consequently this report proposes reduced licence charges, whilst ensuring that full cost to the authority is recovered.

1.0 Purpose Of This Report

1.1 To seek Members approval in principal to the proposed fees, subject to consultation with the industry.

2.0 Background Information

2.1 This Authority presently licences six retail outlets which trade as adult shops. There are presently no licensed sex cinemas in the Leeds district.

- 2.2 The fee for a Sex Establishment was approved by the Licensing Panel in 1999. This has been subject to minor annual increments, and the current charges presently stand at :
- New Application - £11,141.51. This is recovered in the form of £6,695 initially plus a further £4,446.51 upon grant.
 - Renewal - £11,141.51
- 2.3 At the time of setting the licence charges the Leeds district was experiencing a proliferation of sex establishments, both licensed and unlicensed, attracting public complaint, and media attention, bearing additional costs for the licensing section and support services.
- 2.4 It is recognised that since the introduction of internet sales and high street stores retailing adult clothing and material (but not to the extent of requiring a licence), that the number of licensed and unlicensed sex establishments have declined. As a consequence the previous costs born by the licensing authority, particularly through investigations and enforcement have reduced.

3.0 Main Issues

- 3.1 A written representation has been received from Darker Enterprises Limited, who operate a licensed shop from North Street, Ls7, containing a formal request that the current charges be reviewed. A copy of the same may be found attached to this report.
- 3.2 Enquiries made with other local authorities reveal a varied range in charges. To draw comparisons, Members will find below a list of the core cities with their current charges for a new application and the numbers of licensed sex establishments in their areas :

Licensing Authority	Fee	No. licences	Notes
Birmingham	£9,740	15 licences for 13 premises	Challenged last yr which lead to a 25% discount for those premises which held more than 1 licence. Recognise that they need to totally review the fees.
Bristol	£14,888	No info supplied *	No info supplied*
Nottingham	£ 6,294	4	Increased last yr from £3,000
Manchester	£ 5,142	No info supplied*	No info supplied*
Newcastle	£ 6,753	2	Fee not contested to-date
Sheffield	£ 5,200	7	Fee not contested to-date
* an update will be provided at the meeting			

4.0 Proposals

- 4.1 Following a comprehensive costing exercise, the following charges are proposed :
- 4.1.1 New application & Grant of Licence : £8,098, with a refund of £1,860 if the application is refused in its entirety or withdrawn.

This amount includes the costs incurred by licensing in processing the application, including the inspection of notices, dealing with objections,

compilation of committee report, chairs brief, notices of hearing, site visit, the Panel hearing and associated costs, and decision notice.

This amount also includes an element of the licensing sections costs post grant of the licence, such as the annual compliance check with a contribution to the investigation of unlicensed operators. This particular aspect arrives at a total of £1,860 hence the commitment to refund this amount if the application is refused or withdrawn.

4.1.2 Licence Renewal : £3,271.67

This amount includes costs incurred by licensing in processing the renewal application, including the inspection of notices. History suggests that renewal applications attract little opposition, but we have factored in one opposed renewal application per year requiring a hearing before the Licensing Panel portioned between the 6 existing premises.

This figure also includes an annual licence compliance check, again with a contribution to the investigation of unlicensed operators which arrived at a total cost of £1,674 which will be refunded if the renewal application is refused in its entirety or withdrawn.

4.1.3 Licence Transfer : £248

This amount includes costs incurred in processing the application, liaison with the police and prospective licence holder and the issue of the new licence.

4.2 Members may wish to note for comparison purposes that the maximum fee charged under the new Licensing Act 2003 is £1,905 (application) and £1,050 (renewal). This figure would apply to a large venue with a ratable value of £125,001 plus.

4.3 The new charges are to apply to all categories of sex establishment as licensed under the Local Government (Miscellaneous Provisions) Act 1982, including :

- Sex shops (retail outlet)
- Internet & Mail Order sales
- Sex cinema (showing R18 classification films)

5.0 Implications For Council Policy And Governance

5.1 There are no implications

6.0 Legal And Resource Implications

6.1 If Members are minded to agree the revised charges, this will result in an annual loss of revenue to the amount of £47,219.04.

6.2 It is evident that the industry is looking to challenge those authorities who maintain their existing charges without detailed justification. It is considered that Leeds' will not be in a position to justify its current charges.

7.0 Recommendations

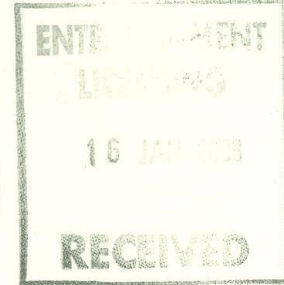
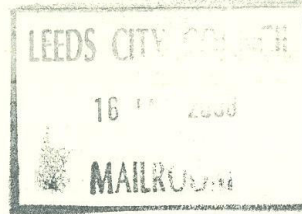
- 7.1 Members are requested to agree the revised licence charges set out at paragraph 4 above.
- 7.2 It is requested that Members approve the proposals in principal to allow the licensing section consult with members of the industry.
- 7.3 If the industry is satisfied with the proposals, it is requested that the new charges take effect forthwith.

Darker Enterprises Limited

SA

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14 January 2008

Dear Sir/Madam

**Re: Local Government (Miscellaneous Provisions) Act 1982
Private Shop - First Floor, 209 North Street, Leeds LS7 2AA**

We are writing to you in connection with the level of licencing fees charged in respect of our licence under Schedule 3 of the above Act.

We would formally request that the level of fees charged be reviewed. As you are aware, Para 19 of the Schedule states 'An applicant for the grant, renewal or transfer of a licence under this Schedule shall pay a reasonable fee determined by the appropriate authority'.

There are a number of points which we would wish you to consider.

- Under the Act, the fee is an application fee not a licencing fee. We would submit that this means that in assessing 'a reasonable fee', the level should be set only to reflect the work involved in processing and determining the application.
- When the levels were originally set, there was no proper idea of the costs likely to be incurred in considering the application.
- There has now been considerable experience of the work generated by applications.
- It is quite clear that renewals (and, indeed, transfers) attract much lower levels of interest and representation than applications for initial grants.
- We also submit that the reasonableness of the fee should also be proportionate in relation to the various other activities licenced under the same Act. If the fee charged in respect of our type of licence is of a different order to that charged in respect of acupuncture, tattooing or ear-piercing or street trading, we feel that concerns might be raised.
- Some of the activities previously covered by the Act now come under the 2003 Licensing Act. In this case the level of fees has been set by Secretary of State for Culture, Media and Sport. It is stated that
 1. The central setting of fees removes the considerable and widespread regional inconsistencies that previously existed with fee levels.

2. The fee is to fully recover the administration, inspection and enforcement costs of licensing authorities, which arise out of carrying out their licensing functions under the Act.
- Again, we would submit that the reasonableness of fees should be judged against the fees levels set by central government. For example, we note that the fee for the transfer of a premises licence is set at £23. Even if the multipliers (of the fee) in respect of large premises supplying alcohol were applied, the fee levels, set centrally, do not even begin to approach that set in respect of our licence.

We would submit that given the changes in circumstances, the current level of our renewal fee can no longer be considered reasonable. We would request that it be reviewed and reduced to a level proportionate to the other licence fees set by the council.

You will realise that the fee is a significant factor in determining the viability of our operations. We think that not only is the fact that the Council now has clearer evidence of the work involved, but, that the Government has set some fee levels, should combine to ensure that any review will lead to a drastic reduction in the level set.

Thank you for considering this. If we can assist further in any way, please do not hesitate to contact us.

Yours faithfully
for and on behalf of
DARKER ENTERPRISES LIMITED



B Francis
Licensing Administrator