

Falkirk Council Licensing Board

Subject: Licensing (Scotland) Act 2005
The Licensing (Fees) (Scotland) Regulations 2007
Premises Licences – Annual Fees
Statutory Annual Income and Expenditure Report 2017/18
Meeting: Licensing Board
Date: 26 June 2018
Author: Consumer Protection Manager

1. Purpose of Report

1.1 This purpose of this report is to:

- provide Members with details of the income and expenditure of the Board for 2017/18;
- provide recommendations in relation to the annual fee levels to be paid by 1 October 2018; and
- seek approval of the Statutory Annual Income and Expenditure Report 2017/18.

2. Recommendations

Members are requested to:-

- (1) note the contents of the report;**
- (2) instruct officers to prepare a report for the first available meeting after the 1 October 2018 listing the Premises Licenceholders that have failed to pay the annual fee prior to the statutory deadline;**
- (3) agree to adopt the Premises Licences Annual Fee levels proposed in Appendix 1; and**
- (4) approve the Statutory Annual Income and Expenditure Report 2017/18 proposed in Appendix 2.**

3. Background

- 3.1 In accordance with the Licensing (Fees)(Scotland) Regulations 2007, the Board is required to set an annual fee for payment by holders of premises licences. Payment then requires to be made by licence holders not later than 1 October in that year. Payment of the annual fee is a mandatory condition of the licence.
- 3.2 While the level of the fee is within the discretion of the Board up to a prescribed amount (as set out in further detail below), the regulations require

the Board to have regard to the desirability of ensuring that the total fees payable are likely to be broadly equivalent to the expenses incurred by the Board. This requirement is replicated in the Gambling Act 2005.

- 3.3 The annual fee for 2018/19 is due on 1 October 2018 for all Premises Licences in effect or suspended on that date or, in any other case, 30 days after the date on which the licence takes effect.
- 3.4 There are six categories of premises referred to in the regulations and these are determined according to the premises rateable value. For each category there is a maximum fee that may be set, varying from £180 to £900. The prescribed maximum fee levels have remained unchanged since their introduction in 2009.
- 3.5 Should the Board decide to set a fee level lower than the maximum, it must:
- determine different fees for the six different categories; and
 - set those fees by reducing each of the fees by an identical percentage.
- 3.6 At the commencement of the Act, the Board decided to set the fees at the maximum prescribed level and annually thereafter. The Board has chosen not to reduce the annual fees as the costs of administering the Licensing Board have consistently exceeded the fee income. The Council has subsidised the cost of the administration of the Board since 2009 although the extent of the subsidy has decreased.

4. Budgetary Information

- 4.1 The financial year runs from 1 April to 31 March the following year. In terms of the Licensing (Scotland) Act 2005, however, the annual fee is payable midway through the financial year on 1 October. The income generated from the annual fee is therefore split equally between consecutive financial years; the income received from the annual fees in October 2017 being added to 50% of the annual fee income from October 2016. The remaining 50% of the October 2017 annual fee income is carried forward at the end of March 2018 into the 2018/19 budget.
- 4.2 The first annual fees were paid in October 2010. The Licensing Section notified all premises licenceholders and collected the fees. This was also the case in 2011. The process of collecting the fees was extremely time-consuming and therefore a pilot scheme was undertaken in 2012 with the task being undertaken by Falkirk Council's Sundry Accounts Team. The annual fees have been collected by Sundry Accounts ever since.
- 4.3 The Licensing Team provide details of all current premises licenceholders to the Sundry Accounts Team. In accordance with regulation 9 of the Licensing (Fees) (Scotland) Regulations 2007, the premise licenceholders are given written notice no later than 30 days before the date on which the fee is due,

namely 1 October. The written notice is in the form of an invoice which gives the payment due date as 1 October.

- 4.4 After the 1 October, the Sundry Accounts team update the Licensing Section weekly with the details of the fees which have been paid so that appropriate action can be taken in relation to those that remain unpaid.
- 4.5 Up until last year, a reminder and a final reminder were issued after the 1 October to those licenceholders whose fees were still outstanding. However, with the invoices that were issued in relation to the October 2017 fee, licenceholders were advised in an accompanying letter, that only one reminder would be issued and that failure to pay by the due date was a breach of a mandatory condition which may result in formal action being taken.
- 4.6 Members considered a report at their meeting in November 2017 which detailed the annual fee paying process. The report included information about how many premises licenceholders paid the annual fee after the 1 October 2017 – 30%. These licence holders are in breach of their mandatory conditions. By the end of October, there were only 10 fees outstanding.
- 4.7 In respect of the 2017 annual fees, no Section 14 Notices were served for non-payment of fees and no licences were transferred or surrendered. The final fee was paid on 10 November 2017.
- 4.8 For the 2018 annual fee, it is the intention of officers to issue with the invoice a covering letter advising premises licence holders that those failing to pay the fee by the 1 October 2018 will be cited to attend the next available Board to explain why their annual fee has not been paid before the statutory deadline.
- 4.9 Licenceholders have the option of paying the annual fee by cash, cheque, BACS or credit/debit card. Payment can be made in person at the Falkirk Council One Stop Shops or by phone. The Licensing Section is working towards enabling applications to be made on-line. It is anticipated that this will include the capacity for the annual fee to be paid on-line.

5. 2017/18 Budget Details

- 5.1 The Licensing Board income is made up of the annual fee for premises licences issued under the Licensing (Scotland) Act 2005 (including any partial annual fees for Premises Licences granted throughout the financial year) and the Gambling Act 2005 plus additional fee income from applications received during the financial year. The following table shows the income generated by applications made during 2017/18:

Licensing (Scotland) Act 2005	
Application Type	Income (£)
Personal	7050
New Premises Licence	1900
Provisional Premises Licence	400
Confirmation of a Premises Licence	1500
Non minor Variation	5120
Minor Variation	3721
Transfer	1190
Extended Hours	900
Occasional Licence	4210
<i>Sub Total</i>	<i>25,991</i>
Gambling Act 2005	
Application Type	Income (£)
Bingo	1200
Small Lottery Permits	160
Notification of Gaming machine	150
<i>Sub Total</i>	<i>1510</i>
TOTAL	27,501

- 5.2 Licensing Board income from the annual fees and the application fees during the 2017/18 financial year amounted to £178,891, made up of £159,026 for liquor and £19,865 for gambling. This is a slight decrease of £6,655 on the previous year's income of £185,546. The fee income over the last six financial years has remained consistent with an average of £180,839 per annum. The income in 2017/18 was £1,948 below this average:

	2012/ 13	2013/ 14	2014/ 15	2015/ 16	2016/ 17	2017/ 18
Alcohol Fees	157,338	154,742	159,593	158,604	162,346	159,026
Gambling Fees	23,430	23,670	21,915	21,310	23,200	19,865
Total Income	180,768	178,412	181,508	179,914	185,546	178,891

- 5.3 The income generated by the Board contributed to the gross budget for administering it, but the Council subsidised the licensing function annually. The level of subsidy has reduced following management actions taken over recent years, but the cost of administering the service still substantially exceeded the income generated from fees in previous years.
- 5.4 However, a change to the accounting procedures derived from amendments to the Chartered Institute of Public Finance and Accountancy (CIPFA) guidelines has been applied since the 2016/17 budget. Essentially this means that the Central Support Recharge, which has previously been paid by the Board to the Council to cover the costs of the support services it receives, is now no longer charged to the Board – these costs are now being met centrally by the Council. The budget for these costs has been removed from the Licensing Board budget since 2016/17.
- 5.5 The following table shows the gross expenditure, income and net expenditure since the change in accounting procedures in 2016/17:

	2016/17	2017/18
Employee Expenses	175,512	177,407
Supplies & Services	9,887	8,513
Gross Expenditure	185,400	185,920
Income	(185,546)	(178,891)
Net Expenditure	(146)	7,029

- 5.6 With the adoption of the new CIPFA guidelines, the income (liquor and gambling) still does not cover the cost of administering the Board by £7,029. The Board should note that for this period, the employee costs have been reduced as there has been a vacant post so the level of subsidy is artificially low. This post has now been filled and therefore the employee costs for 2018/19 will return to previous levels. That being the case, it is recommended that the Board maintains the same level of annual fees that has been charged previously.

6. Review of Alcohol Fees

- 6.1 Since the fees regime came into effect, in 2009, a number of concerns have been raised by stakeholders who feel that the regime should be made fairer and that smaller businesses currently pay disproportionately large fees.

- 6.2 Previous reports to the Board concerning fees made reference to The Scottish Government's Justice Analytical Services who, on behalf of the Criminal Law and Licensing Division, conducted a review of alcohol licensing fees. The review, which was published in early 2014, did not come to a firm conclusion. The researchers were not able to obtain sufficient material from Licensing Boards to strongly evidence changes to the fees regime.
- 6.3 That said, the report contained a number of relevant recommendations, one of which was that Boards should be placed under a duty to report on their income and expenditure. This recommendation was included in the Air Weapons and Licensing (Scotland) Act 2015 which received royal assent in June 2015. The 2015 Act inserts a new section 9B to the Licensing (Scotland) Act 2005 to provide that the Board must prepare and publish an annual financial report not later than 3 months after the end of the financial year. This report must include a statement of relevant income received by the Board during the financial year and the amount of relevant expenditure incurred in the year. An explanation of how the amounts were calculated must be included. Relevant income and relevant expenditure include fees brought in and costs incurred under the 2005 Act and also income received and costs incurred in relation to the social responsibility levy from premises licenceholders and occasional licenceholders. However, no regulations have as yet been made under section 14 of the Alcohol etc (Scotland) Act 2010 bringing the social responsibility levy into play.
- 6.4 Scottish Ministers may make regulations detailing the form and content of the income and expenditure report and its publication. The reports considered by members in relation to the setting of the fees have, since 2013, provided details of the annual fee income and expenditure. The first such report was prepared and published in relation to the 2016/17 financial year. A Scottish Government representative has advised that these reports will ultimately inform a further review of the overall fees regime for alcohol licensing.
- 6.5 The review also recommended that there be an increase to the fee for an occasional licence; this is set within secondary legislation so it would be possible for this to be increased at any time. The Scottish Government representative has advised that there is an intention to look at the occasional licence fee, recognising that the current fee level is inappropriate

7. Statutory Annual Income and Expenditure Report 2017/18.

- 7.1 The statutory Annual Income and Expenditure Report 2017/18 is attached as appendix 2 to the report. As this is a requirement of the Licensing (Scotland) Act 2005, the expenditure figures included elsewhere in this report have been adjusted to remove, as far as is practicable, the costs of administering the Gambling Act 2005.
- 7.2 An approximation of the costs of the Clerk to the Board and supporting staff outwith the Licensing Team have been included in the Direct Staff costs of the statutory financial report.

8. Conclusions

- 8.1 It is concluded that the annual fees in relation to premises licences are retained at the existing level for 2018/19 as detailed in Appendix 1 to this report. The basis for this recommendation is threefold. Firstly, to maintain and support the necessary resources and staffing levels to ensure that all the issues and requirements which have been highlighted by the Board as being required to be addressed continue for the coming year, secondly, to await the review of fee levels by the Scottish Government following on from the publication of the statutory financial reports in the next couple of years, and thirdly, to await a review of the occasional licence fee.
- 8.2 The regulations allow scope for the annual fee to be paid in instalments. This would be at the discretion of the Board. The instalments may be paid in 4 or 12 equal payments over the course of the year following the date on which the fee would otherwise be due. Since 2014, the Board has made this available to licenceholders, however only a very few have taken it up. Officers can advise that on a couple of occasions where this has been the case, licenceholders have subsequently cancelled their Direct Debits and officers have had to spend time chasing up payments.

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Consumer Protection Manager
Date: 14 June 2018

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Appendices

Appendix 1 – Proposed Premises Licences Annual Fee 2018

Appendix 2 - Statutory Annual Income and Expenditure Report 2017/18.

LIST OF BACKGROUND PAPERS

Nil

Appendix 1

LICENSING (SCOTLAND) ACT 2005
The Licensing (Fees) Scotland Regulations 2007
PREMISES LICENCES - FEE TABLE

Category	Rateable Value	New Application Fees £	*Annual Renewal Fees 1 October 2018 £
1	Not entered on the valuation roll or a nil value is shown	200	£180
2	£1 and £11,500	800	£220
3	£11,501 and £35,000	1,100	£280
4	£35,001 and £140,000	1,300	£500
5	£70,001 and £140,000	1,700	£700
6	Over £140,000	2,000	£900

*Please Note: The figures in **Bold** are the proposed Premises Licences Annual Fees from 1 October 2018 referred to in the Members consideration

Licensing (Scotland) Act 2005
Falkirk Licensing Board Financial Report
Financial Year: 2017/18

The Falkirk Licensing Board is required under section 9B of the Licensing (Scotland) Act 2005 to publish an annual financial report within 3 months of the end of the relevant financial year.

This report has been prepared using financial data taken on 8 May 2018. The relevant budgets and other finance sources that the data has been extracted from have not yet been audited. Consequently the figures provided in this report are indicative and cannot be relied upon as an accurate reflection of income and expenditure relative to the exercise of the Licensing Board's functions under the Licensing (Scotland) Act 2005.

The financial statement is as follows:

Income¹:	(£159,026)
Direct Staff Costs²:	£170,109
Other Direct Costs³:	£8,428
Indirect Costs⁴:	£0
Net Income – Expenditure	£19,511

Notes:

1. Denotes income from applications and annual fees received under the Licensing (Scotland) Act 2005.
2. Denotes salary, superannuation, national insurance and pension costs associated with the Clerk, Licensing Standards Officers and other Council staff responsible for administrative support under paragraph 8 of Schedule 1 to the Licensing (Scotland) Act 2005.
3. Denotes direct budgetary costs associated with the exercise of the Licensing Board function in relation to supplies and services such as such as in house printing costs, stationery, postage, maintenance of computer systems etc.
4. Denotes the portion of central administrative costs such as accommodation, ICT, facility management etc. that are allocated to the Licensing Board budget. A change to the accounting procedures derived from amendments to the Chartered Institute of Public Finance and Accountancy (CIPFA) guidelines has been applied to the 207/18

budget. This means that the Central Support Recharge, which has previously been paid by the Board to the Council to cover the costs of the support services it receives, is now no longer charged to the Board – these costs are now being met centrally by the Council. The budget for these costs has been removed from the Licensing Board budget for 2017/18