

# **AGENDA ITEM**

**13**

**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 2018/19

**Meeting:** Licensing Board

**Date:** 11 June 2019

**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 2018/19;
- provide recommendations in relation to the annual fee levels to be paid by 1 October 2019;
- seek approval of the Statutory Annual Income and Expenditure Report 2018/19; and
- seek approval for the draft response to the Scottish Government's consultation on occasional licences.

**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 2019 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;**
- (4) approve the Statutory Annual Income and Expenditure Report 2018/19 proposed in Appendix 2; and**
- (5) approve the draft response to the Scottish Government's consultation on occasional licences as proposed in Appendix 3 .**

### **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 2019/20 is due on 1 October 2019 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 2019 being added to 50% of the annual fee income from October 2018. 50% of the fee income gathered in October 2019 is then carried forward at the end of March 2020 into the 2020/21 budget.
- 4.2 As members are aware from previous reports, the annual fee has been collected by the Council's Sundry Accounts Team since 2012 on behalf of the

Licensing Section. An invoice is issued to all premises licenceholders in accordance with the statutory timescale and a final notice issued after the 1 October.

- 4.3 Payment can be made online, by cheque, card, by BACS or in person at one of the Hubs. Payment cannot be made directly to the Licensing Section. However, every year there are a significant number of licenceholders that either send cheques, phone or visit the Licensing Section to pay their fee. Officers waste time redirecting callers and mail. To address this, a review of payment methods was carried out in February 2019 and changes are to be implemented by Income Management to allow payment to be made at the Licensing Section in addition to the existing methods.
- 4.4 The Licensing Section is working towards enabling applications to be made on-line, however, this probably won't be available for the 2018 fee.
- 4.5 Failure to pay by the due date is a breach of a mandatory condition which may result in formal action being taken. 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.
- 4.6 In respect of the 2018 annual fees, a report was considered by the Board at its meeting on 14 November 2018. The report gave details of licenceholders that had failed to pay the fee by the statutory date of 1 October. The report is attached as appendix 4.

## 5. 2018/19 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.
- 5.2 Licensing Board income from the annual fees and the application fees during the 2018/19 financial year amounted to £177,286, made up of £159,706 for liquor and £18,580 for gambling. This is a very slight decrease of £1,605 on the previous year's income of £185,546. The fee income over the last seven financial years has remained consistent with an average of £180,332 per annum. The income in 2018/19 was £3,046 below this average:

	2012/ 13	2013/ 14	2014/ 15	2015/ 16	2016/ 17	2017/ 18	2018/ 19
<b>Alcohol Income</b>	157,338	154,742	159,593	158,604	162,346	159,026	158,706
<b>Gambling</b>	23,430	23,670		21,310			

<b>Income</b>			21,915		23,200	19,865	18,580
<b>Total Income</b>	<b>180,768</b>	<b>178,412</b>	<b>181,508</b>	<b>179,914</b>	<b>185,546</b>	<b>178,891</b>	<b>177,286</b>

5.3 The income generated by the Board contributed to the gross budget for administering it, but the Council subsidises 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 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:

	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>
Employee Expenses	175,512	145,954*	175,874
Supplies & Services	9,887	8,402	8,470
<b>Gross Expenditure</b>	<b>185,400</b>	<b>154,356</b>	<b>184,344</b>
<b>Income</b>	<b>(185,546)</b>	<b>(178,891)</b>	<b>(177,286)</b>
<b>Net Expenditure</b>	<b>(146)</b>	<b>(24,535)</b>	7,058

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 £7,058. The Board should note that the reason for the increase in employee costs is the appointment of a Licensing Standards Officer to the post that was vacant during all of 2017/18 and the first three months of 2018/19. This post has now been filled and therefore the employee costs for 2018/19 have returned 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. Statutory Annual Income and Expenditure Report**

- 6.1 Members are aware from previous fees reports 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 Licensing (Scotland) Act 2005 and also income received and costs incurred in relation to the social responsibility levy from premises licenceholders and occasional licenceholders. However, in relation to the latter, no regulations have as yet been made under section 14 of the Alcohol etc (Scotland) Act 2010 bringing the social responsibility levy into play. The statutory statement must be published by the end of June each year.
- 6.2 Although in relation to the setting of the fees members have considered reports detailing the annual fee income and expenditure, the first statutory statement required to be 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

## **7. Scottish Consultation on Occasional Licences**

- 7.1 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.
- 7.2 The review, however, did recommended that there be an increase to the fee for an occasional licence recognising that the current fee level of £10 is inappropriate. As the fees are set within secondary legislation it would be possible for this to be increased at any time.
- 7.3 On 23 April 2018, the Scottish Government launched a consultation in relation occasional licences. The purpose of the consultation is:
- to consult on whether or not to raise the fee for an occasional licence from the current price of £10, and if it is agreed that we should increase the fee, seek views on what that new fee level should be; and
  - seek views on prescribing a limit on the number and duration of occasional licences for premises licence holders and personal licence holders.

The closing date for the consultation is 16 July 2019.

Officers are in favour of an increase in the fee as the current fee does not cover the cost of processing such a licence, however, officers are of the opinion that a single fee is inappropriate and would recommend a tiered fee structure with large scale, profitmaking events attracting the highest fee. The full draft response is attached as appendix 3.

## **8. Statutory Annual Income and Expenditure Report 2018/19.**

- 8.1 The statutory Annual Income and Expenditure Report 2018/19 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 the statutory report have been adjusted to remove, as far as is practicable, the costs of administering the Gambling Act 2005.
- 8.2 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.

## **9. Conclusions**

- 9.1 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 the outcome of the consultation on the occasional licence fee.
- 9.2 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, and an increasing number have taken it up although the total number is still very low. Officers can advise that it is still the case that on a couple of occasions, licenceholders who have set up a direct debit have subsequently cancelled them and officers have had to spend time chasing up payments.

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Consumer Protection Manager  
Date: 30 April 2019

Contact Officer: Alison Barr, Consumer Protection Manager (telephone 501265)

Appendices

Appendix 1 – Proposed Premises Licences Annual Fee 2019

Appendix 2 - Statutory Annual Income and Expenditure Report 2018/19.

Appendix 3 – Draft response to Occasional Licence consultation.

Appendix 4 – Annual fee non-payers report dated 1 November 2018

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 2019 £
1	Not entered on the valuation roll or a nil value is shown	200	<b>£180</b>
2	£1 and £11,500	800	<b>£220</b>
3	£11,501 and £35,000	1,100	<b>£280</b>
4	£35,001 and £140,000	1,300	<b>£500</b>
5	£70,001 and £140,000	1,700	<b>£700</b>
6	Over £140,000	2,000	<b>£900</b>

\*Please Note: The figures in **Bold** are the proposed Premises Licences Annual Fees from 1 October 2019 referred to in the Members consideration

**Licensing (Scotland) Act 2005**  
**Falkirk Licensing Board Financial Report**  
**Financial Year: 2018/19**

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 9 April 2019. 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 only.

The financial statement is as follows:

<b>Income<sup>1</sup>:</b>	<b>(£158,706)</b>
<b>Direct Staff Costs<sup>2</sup>:</b>	<b>£199,906</b>
<b>Other Direct Costs<sup>3</sup>:</b>	<b>£8385</b>
<b>Indirect Costs<sup>4</sup>:</b>	<b>£0</b>
<b>Net Income – Expenditure</b>	<b>-£49,585</b>

**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. Increase in Direct staff costs can mainly be attributed to the previously vacant Licensing Standards Officer post being filled in July 2018. The post had been vacant since April 2017.
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 2018/19 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 2018/19



## ANNEX B

### The Licensing (Scotland) Act 2005 – Consultation on reviewing the fee for occasional licences and considering a limit on the number and duration of occasional licences

#### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be completed and returned with your response. To find out how we handle your personal data, please see our privacy policy:

<https://beta.gov.scot/privacy/>

Are you responding as an individual or an organisation?

Individual  Organisation

Full name or organisation's name

FALKIRK COUNCIL

Phone number

Address

01324 506070

MUNICIPAL BUILDINGS  
WEST BRIDGE ST.  
FALKIRK

Postcode

FK1 5RS

Email

licensing@falkirk.gov.uk

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
 Publish response only (without name)  
 Do not publish response

#### Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes  No

**ANNEX C**  
**Questions:**

**Fees**

1. Do you agree that the fee for an occasional licence should be increased from the current level of £10?

Yes  No

2. Why?

See below

3. Do you agree that £50 is an appropriate new fee level?

Yes  No

4. Why?

See below

5. Do you agree that £75 is an appropriate new fee level?

Yes  No

6. Why?

See below

7. Do you agree that £100 is an appropriate new fee level?

Yes  No

8. Why?

See below

9. If you do not think that any of the proposed fee levels are appropriate, what do you believe would be a suitable fee level?

See below

10. What evidence, based on cost recovery, can you supply for an appropriate fee level for occasional licences?

This Board believes that it would be very difficult to calculate a single fee for an occasional licence and would like to see a tiered fee structure introduced with the highest fee applying to profit making, large scale events.

Experience had shown that the time taken to process occasional licence applications varies significantly and is dependent on a number of factors such as the nature of the event, the knowledge and experience of the applicant, any further information required by the Licensing Standards Officer, whether a site visit is required, if objections and/or representations are received.

The Board has calculated that an application that is fully competent on receipt, requires no further information from or contact with the applicant, no site visit and which receives no objections and/or representations costs £28.45 of staff time to process. It should be noted that the number of applications received where this is the case is very low. The application was for a fundraising event at a local hall with 60 attendees. The applicant had made previous similar applications and was known to the Board as a responsible and knowledgeable licenceholder.

In contrast the staffing costs associated with a recent application for an outdoor music festival for 5000 people were £469.21. This was the first time that the applicant had applied for an event of this nature and magnitude and therefore the amount of time spent, particularly by the Licensing Standards Officer, was much higher. No objections and/or representations were submitted.

Since the 2005 Act came into force, the number of occasional licence application made to the Falkirk Board has increased from 291 in 2010/11 to 616 in 2018/19. The attached graph shows this and, based on the annual data, forecasts the future trends. Between 2010/11 and 2015/16 occasional licence applications constituted 39% of the annual workload of the Board. However, in each of the last 3 years this has risen reaching just over 54% in 2018/19 – this represents just 3.8% of the Board's income.

The Board has never been able to meet its costs and has had to be subsidised by Falkirk Council annually. An increase in the fee for occasional licences would, in the opinion of the Falkirk Board, address this issue.

### Limits

11. Do you agree that limits should be placed on the number and duration of occasional licences for holders of a premises licence and holders of a personal licence?

Yes  No

12. Why?

The Falkirk Board has analysed the data in relation to the type of applicants for occasional licences since 2010/11. Whilst the number of applications submitted by voluntary organisations, members clubs and premises licenceholders have remained relatively static, there has been a year on year increase in applications from personal licenceholders from 55 in 2010/11 to 310 in 2018/19. It could be inferred from this that there is a need for the number of applications that can be made by personal licenceholders to be limited. However, this is not the view of the Falkirk Board as it is aware that many of these applicants operate as sole trader businesses and any limit on licence applications may stifle their enterprise.

Nor would the Board would not be in favour of a limit on the number of applications per premises. Many local, unlicensed venues are used for a variety of different types of events with the occasional licence being sought by different applicants. Most of these are local community halls that would struggle to meet their costs should a limit be applied.

13. What do you think would be an appropriate limit on the **number** of occasional licences that could be issued to the same **applicant** in a 12 month period, and why?

See above

14. What do you think would be an appropriate limit on the **number** of occasional licences that could be issued to the **same premises** in a 12 month period, and why?

See above

15. What do you think would be an appropriate limit on the **number of days** that occasional licences issued to the **same applicant** in a 12 month period could have effect, and why?

See above

16. What do you think would be an appropriate limit on the **number of days** that the occasional licences issued in relation to the **same premises** in a 12 month period could have effect?

See above

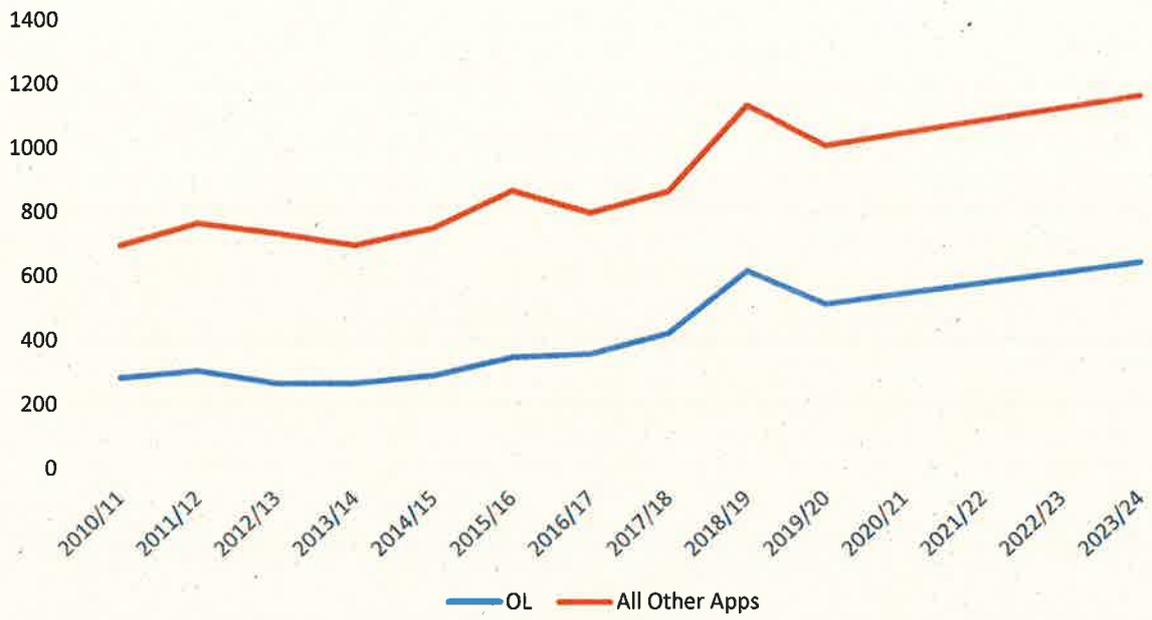
17. What do you think would be an appropriate limit on the **number of continuous days** that a series of occasional licences can have effect in relation to the **same premises**?

See above

18. Are there any other comments you wish to make that relate to the occasional licence?

No

### Falkirk Council



The above graph shows the total number of liquor applications received by the Board from 2010/11 to 2018/19 and forecasts the future numbers. The number of occasional licences are shown separately.

**Falkirk Council Licensing Board**

**Subject:** Licensing (Scotland) Act 2005  
Annual Retention Fee  
**Meeting:** Licensing Board  
**Date:** 14 November 2018  
**Author:** Consumer Protection Manager

**1. Purpose of Report**

- 1.1 The purpose of this report is provide to members details of those premises licenceholders that failed to pay their annual fee by 1 October 2018.

**2. Recommendation**

- 2.1 For noting.

**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.
- 3.2 At the meeting of the Licensing Board on 26 June 2018, members approved the annual fee and instructed officers to prepare a report for the first available meeting after 1 October 2018, listing the premises licence holders that have failed to pay the annual fee prior to the statutory deadline.
- 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 Invoices were sent out on 24 August 2018 by Sundry Accounts. A covering letter was issued with the invoice explaining the legal requirement to pay the annual fee by 1 October 2018. The letter is attached as appendix 1.

**4. Breach of a Mandatory Condition**

- 4.1 Payment of the annual fee is a mandatory condition of the licence.
- 4.2 The Licensing Standards Officer can issue a Section 14 notice in relation to a breach of a mandatory condition. Such a notice must give the action that the licenceholder needs to take to remedy the breach –

in this instance the remedy is to pay the outstanding annual fee within 48 hours of receipt of the Section 14 notice.

- 4.3 If the licenceholder fails to comply with a Section 14 Notice, the Licensing Standards Officer will make a request to the Board to review the premises licence.

## **5. Details of Non-Payers**

- 5.1 On 2<sup>nd</sup> October 2018, officers were advised by Sundry Accounts that 119 invoices were still outstanding. This represents 33% of premises licenceholders.
- 5.2 On 8<sup>th</sup> October 2018, Sundry Accounts issued 79 final notices in relation to the outstanding invoices.
- 5.3 25 invoices were still outstanding by 22 October, and officers from the Licensing Section has to contact the non-payers to chase up payment.
- 5.4 All fees were paid by 1 November 2018 with the exception of one. A Section 14 notice was served by the Licensing Standards Officer on the licenceholder and, at the time of writing this report, the fee remains outstanding. The notice was served on GGR Public House Limited. The company holds the premises licence for the Town Bar in Bo'ness. The premises has not traded since February of this year.

## **6. Consideration**

- 6.1 In light of the number of non-payers after the statutory deadline, officers are planning to review the payment process.

## **7. Implications**

### Financial and Resources

- 7.1 The collection of the annual fee is crucial as this income contributes to the costs of the administration of the Board.

### Legal

- 7.2 Payment of the annual fee is a mandatory condition of the licence.

### Risk

- 7.3 Failure to gather annual fee income will impact on the administration of the Board.

### Equalities

7.4 The Board's continued commitment to equalities issues is demonstrated in the strategy and reports that have been published since 2013.

Sustainability / Environmental Impact

7.5 None

## **8. Conclusion**

8.1 A third of licenceholders failed to pay before the statutory deadline. Officers are planning to review the payment process to see if it can be made simpler which would facilitate the collection of the fees

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**Clerk to the Licensing Board**

Date: 1 November 2018

**Contact Officer:** Alison Barr, Consumer Protection Manager ext. 1265

Appendix 1 – Letter sent to Licenceholders

## **LIST OF BACKGROUND PAPERS**

Nil