

 Executive – 3 December 2008		Agenda Item No.
Title	Fees for sex shop licences	
For further information about this report please contact	Robert Inman	
Service Area	Members' Services	
Wards of the District directly affected	None	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006	No	
Date and meeting when issue was last considered and relevant minute number		
Background Papers	None	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No

Officer/Councillor Approval		
With regard to officer approval all reports <u>must</u> be approved by the report authors relevant director, Finance, Legal Services and the relevant Portfolio Holder(s).		
Officer Approval	Date	Name
Relevant Director	30 October 2008	Chris Elliott
Chief Executive	30 October 2008	Chris Elliott
CMT	13 November 2008	
Section 151 Officer	31 October 2008	Mary Hawkins
Legal	-	-
Finance	30 October 2008	Marcus Miskinis
Portfolio Holder(s)	31 October 2008	Michael Doody and Michael Kinson
Consultation Undertaken		
Final Decision?	No	
Suggested next steps (if not final decision please set out below)		

1. SUMMARY

- 1.1 At the meeting of the Executive on 15 October 2008 consideration was given to the fees and charges to be introduced in April 2009.
- 1.2 Approval of the proposed fee for applications for sex shop licences was deferred pending a further report regarding the reasons for recommending the introduction of a fee of £2000.
- 1.3 This report provides background information regarding the proposed fee.

2. RECOMMENDATIONS

- 2.1 The Executive be requested to agree the fee to be introduced for sex shop licence applications taking into account the previous recommendation that this should be set at £2000 for 2009/10.
- 2.2 The matter be closely monitored over the coming year so that the fee can be reviewed and proposals brought forward if it is felt that the fee is insufficient.

3. REASONS FOR THE RECOMMENDATION

- 3.1 The requirement under statute is that license fees should be sufficient to cover the costs of the Council in administering the licensing function.

4. ALTERNATIVE OPTION CONSIDERED

- 4.1 An alternative fee could be agreed.

5. BUDGETARY FRAMEWORK

- 5.1 The fees and charges agreed by the Executive form part of the Budgetary Framework which is the resource strategy for implementing the Council's Corporate Strategy.

6. POLICY FRAMEWORK

- 6.1 There are no policy issues relating to this issue.

7. BACKGROUND

- 7.1 The Local Government (Miscellaneous Provisions) Act 1982 includes the requirement that:

"An applicant for the grant, renewal or transfer of a licence shall pay a reasonable fee determined by the appropriate authority."

- 7.2 It is considered that the current fee of £795 needs to be increased to cover the costs of enforcement, any covert operations and possible prosecution. The processing of sex shop applications is time consuming and it is anticipated that any applications will almost certainly result in representations being received. This would result in a hearing being arranged before the Council's Regulatory Committee, resulting in more additional administration and officer time.

- 7.3 Non-compliance with the terms of licences issued may result in a prosecution which would also be costly. However, after taking this into consideration, the Council is only permitted to set a "reasonable" fee.
- 7.4 Legislation does not define what "reasonable" means but there must be provision for eventualities such as the costs of processing applications, compliance and enforcement activities and, if necessary, the preparation of a case for prosecution and the actual prosecution.
- 7.5 If an offence was committed under the Licensing Act the Council would bear the costs as the prosecuting authority.
- 7.5 Although the proposed fee of £2000 is less than charged by neighbouring authorities, it is believed that the proposal is both reasonable and fair. At the same time it is not of such a high level that it would deter applications, which is something that should be avoided in the interest of natural justice.
- 7.6 Authorities, whilst being mindful of fees set by neighbouring authorities, must still be seen to set reasonable fees. There are many instances where neighbouring authorities charge different fees for their licensing services. For example, the fee for a three year hackney carriage/private hire driver's licence with this Council is £120, whereas a one year licence in neighbouring Coventry is £180. It would be necessary for each authority to justify the level of their fees if challenged.
- 7.7 Central government could set a uniform fee for licence applications but have chosen not to do so. The reason for this is that latitude is given to each authority to assess the correct fee taking into account its own individual circumstances, including costs. If the fee charged by this Council were challenged there would be a need to justify the level of the fee. It is possible to justify the proposed £2000 fee but, potentially, there could be difficulties in doing so for a higher fee.
- 7.6 The Council has not as yet issued any sex shop licence and so there is little background information to assess accurately the costs involved or to substantiate a larger increase in the fee. The proposed fee of £2000 is considered though to be a reasonable estimate but the position will be closely monitored so that the fee can be reviewed after twelve months and proposals brought forward if it is felt that it is insufficient.