

<b>Item No.</b>	<b>Classification</b> Open	<b>Date:</b> 20 January 2016	<b>Decision Maker:</b> Cabinet Member for Communities and Safety
<b>Report title:</b>		Street Enforcement and Compliance Services Fees and Charges for 2016/17	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Strategic Director of Environment & Leisure	

## RECOMMENDATION

1. That the Cabinet Member agrees the proposed non-statutory fees for Street Enforcement and Compliance Services as set out in the report below and notes the statutory fees and charges as set out within Appendix 1 of the report for 2016/17, with an implementation date of 1 April 2016.

## BACKGROUND INFORMATION

2. This report sets out proposals for Street Enforcement and Compliance Services Fees and Charges for 2016/17.
3. The Medium Term Resources Strategy (MTRS) 2015/16 – 2017/18 and the corporate income policy require that:
  - Fees and Charges are increased to a level, at a minimum, that is equal to the most appropriate London average (e.g. inner London, family, groupings etc.) except where this conflicts with council policy, would lead to adverse revenue implications or would impact adversely on vulnerable clients
  - Income generation is maximised by seeking income streams in line with council policies and priorities.
  - All fees and charges capped by statute are increased to the maximum level the cap allows.
4. Only where it can be demonstrated that adverse financial implications might arise or where increases are not considered realistic due to demand and local circumstances, can fees or charges increases be set at a lower level than that set by the MTRS.
5. The Council's constitution requires that all fees and charges increases are agreed by the relevant Cabinet Member through an Individual Decision Maker (IDM) report. An IDM report is also required where no increase or a reduction in fees and charges is proposed.

## KEY ISSUES FOR CONSIDERATION

6. Fees and charges are those charges where there is a schedule of rates for services provided. There are various types, namely mandatory and discretionary i.e. where the Authority must charge or where there is a choice of charging or not. Whether mandatory or discretionary, the charges will be either:
  - Fixed – where the level of charges is set by statute and the Authority has

- no discretion.
  - Capped - where a maximum level is set, generally by statute and so charges cannot be set above this level, or where fees have to be set at a level only relating to the costs incurred by the Council in delivering the relevant service, or
  - Flexible – where there is full discretion on the level of charges to be set
7. Where the Authority has a choice about charging, any decision not to charge must be agreed by the relevant Cabinet Member. This is reviewed annually and considered within the context of the overall budget position.
  8. This report only seeks approval for fees and charges for which there is discretion or where fees are capped, although, all fees and charges are included in the Appendix for information.
  9. In arriving at the proposed fees and charge levels, consideration has been given to a number of factors, including; volume assumptions, benchmarking data, market forces and sensitivity i.e. the impact that increases will have on its customers' ability to pay and the take-up of services. Another factor taken into account is that, whilst Southwark may have discretion over the level of fees set, in many cases, this is on a cost recovery basis or must have due regard to the cost of service and be reasonable. The cost of service provision has therefore, also been a consideration in arriving at the proposed fees.
  10. Most fees and charges are to be increased in accordance with the MTRS to the inner London Average and where this does not apply a specific business reason is set out in the attached schedules.
  11. Table 1 below details the total income expected to be generated from fees and charges. A full list of non-statutory fees and charges to be approved are shown in Appendix 1. They also detail statutory fees and charges, which are provided for information.

## **Division / Business Unit**

### Licensing

12. The Licensing fees are levied under statute, and are listed in Appendix 1. The main categories of fee income derive from the Licensing Act 2003 (which has fixed fee levels) and the Gambling Act 2005 (capped with a statutory limit). Most of the fees are at their permitted maximum and the only fees currently below the maximum are those fees relating to bingo premises. It is therefore proposed to increase these by 15% to the maximum permitted, in line with the MTRS. This is also in line with the fees of neighbouring boroughs. The indicated cap or limit set on the proposed fees follows the case law that local Authorities may not charge a fee that recovers more than the cost of administering this process.
13. The schedule of fees and charges now incorporates fees and charges payable under the Explosives Regulations 2014, which came into effect in October 2014. These fixed fees and charges replace the previous fee paying regime dealing with explosives and fireworks storage that existed under earlier regulations.
14. The Scrap Metal Dealers Act 2013 came into effect on 1 October 2013. The schedule of fees and charges associated with this was previously agreed under

the IDM process on 27 September 2013. The Act replaces the earlier Scrap Metal Dealers Act 1964 and Part 1 of the Vehicles Crime Act 2001 which are both removed from the schedule of fees and charges.

15. The Act provides a new licensing regime for scrap metal dealers and motor salvage operators, providing for licensing of both scrap metal dealers sites and mobile collectors. The schedule of fees and charges was established having had regard to guidance published by the Home Office and Local Government Association. As this Act has only recently come into force, it was proposed that the fees be held at 2014/15 levels for 3 years and reviewed in 2016/17 for 2017/18.

### CCTV

16. The CCTV service receives frequent requests from various sources regarding access and downloading of CCTV footage. This can be a timely exercise, requiring the CCTV operators to go through the footage, which can involve numerous cameras and a wide time frame. The proposed charges are in line with other London boroughs. Charges are only to be imposed on solicitors and insurance companies, with partner agencies and FOI requests remaining free of charge. Appendix 1 shows a full list of the proposed charges for the service.
17. This is currently not a source of any significant activity, however with the increased level of coverage across the borough, the unit is looking to put in the appropriate charging infrastructure to recover the administration cost of this service.

### Fixed Penalty Notices

18. Fixed penalty notices (FPNs) can be issued to deal with environmental offences such as littering, graffiti, dog fouling and fly posting. The legislation relating to fixed penalty notices includes:
  - Environmental Protection Act 1990
  - Clean Neighbourhoods and Environment Act 2005
  - Anti-social Behaviour Act 2003
  - Anti-social Behaviour, Crime and Policing Act 2014
  - Refuse Disposal (Amenity) Act 1978
  - Environmental Offences (Fixed Penalties) (Miscellaneous Provisions) Regulations 2007
  - Environmental Offences (Use of Fixed Penalty Receipts) Regulations 2007
19. Penalty Notices are capped to a maximum amount with a discount for early payment where applicable.

### **Resource implications**

20. Table 1 shows the budgets for 2015/16 and the anticipated income levels for 2016/17 arising from the proposed fees. Budget assumptions are covered in the comments accompanying the financial table and the above paragraphs.

Table 1 – Street Enforcement and Compliance Services Fees and Charges

<b>Division/ Income Stream</b>	<b>2015/16 Income Budget</b>	<b>Expected Increase in income arising from increased fees</b>	<b>2016/17 Estimated Income Budget</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Licensing	452	0	452
Enforcement	110	0	110
<b>Total</b>	<b>562</b>	<b>0</b>	<b>562</b>

#### Budget assumptions and implications

21. The majority of fees and charges for the division are at their permitted maximum and where there have been changes, these are not expected to lead to a significant increase in income. Any benefits or repercussions for demand for services arising from the proposed fees and charges will be reflected in revenue monitoring reports and future budget proposals. Any variances will be contained within existing budget for 2016/17 financial year.

#### Staffing implications

22. There are no staffing issues associated with this report.

#### Community Impact Statement

23. Given the current economic climate and general cost of living increases experienced by Southwark residents and businesses, where possible, fees have been frozen. Changes are proposed only where the Council are not covering its actual costs or where anomalies exist within its current pricing structure. Where possible discounts have been applied for the vulnerable users e.g. Parking permit charges for people with disabilities.

#### Consultation / Notification of fee increases

24. Consultation is not required on the above fees and charges. However, once approved, notification of fee increases will be published through the appropriate channels and key stakeholders.

#### SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

##### Director of Law and Democracy (SB0116)

25. The Cabinet Member for Communities and Safety is requested to approve the 2016/17 non-statutory fees and charges as outlined in this report. The recommendations will take effect on 1 April 2016 if approved.
26. The approval of the fees and charges sought in this report is a matter reserved to the Cabinet Member for individual decision making in accordance with Part 3D paragraph 3 of the Council's constitution.

27. The proposed increases are intended to be consistent with corporate policy, in particular the Medium Term Resources Strategy and will apply to the existing non-statutory fees and charges. The Community Impact Statement contained within paragraph 23 notes that the proposed fees and charges have been recommended following consideration by officers of their likely impact and effect on individuals and groups within the community (in particular, those having a protected characteristic) with reference to the Public Sector Equality Duty imposed by section 149 of the Equality Act 2010.
28. Section 93(1) of the Local Government Act 2003 enables the Council to charge for providing discretionary services. The power in the Act is subject to the requirement that the Council is not prevented from charging for the services by virtue of any other legislation. The Director of Law and Democracy is not aware of any specific legislative provision which would prevent the Council from relying on these powers to charge.
29. The power to charge for a service under the Act is also subject to the duty to make sure that, taking one financial year with another, the income from charges made from a service does not exceed the cost of the provision of the service.
30. The Council is, therefore allowed to set the level of the charge for each discretionary service that it thinks fit and considers reasonable, subject to those charges not exceeding the costs of the provision.
31. The report confirms that there are no prescribed legal requirements for consultation on the proposed fees and charges although any proposed increases will need to be publicised and notified. Officers should ensure that all forms of notification explain how and to whom any complaints or queries should be made

**Strategic Director of Finance and Governance (EL15/028)**

32. This report recommends that the Cabinet Member for Communities and Safety agrees the proposed non-statutory fees and notes the statutory fees and charges for 2016/17, with an implementation date of 1 April 2016.
33. The strategic director of finance and governance notes the resource implications contained within the report.
34. Officer time to effect the recommendation will be contained within existing budgeted revenue resources.

**BACKGROUND DOCUMENTS**

Background Papers	Held At	Contact
Environment Fees & Charges 2016-17 working papers and relevant emails	E & L offices, 3 <sup>rd</sup> Floor, 160 Tooley Street, SE1P 5LX	Daniel Brew- Riverson, Divisional Accountant 0207 525 2389

**APPENDICES**

No.	Title
Appendix 1	Statutory and non statutory fees and charges

## AUDIT TRAIL

<b>Lead Officer</b>	Deborah Collins, Strategic Director, Environment & Leisure	
<b>Report Author</b>	David Littleton, Head of Regulatory Services	
<b>Version</b>	Final	
<b>Dated</b>	20 January 2016	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional/Community Council/Scrutiny Team</b>	20 January 2016	