



<b>REPORT TO:</b>	Licensing Committee
<b>DATE:</b>	18 <sup>th</sup> September 2013
<b>LEAD OFFICER:</b>	Head of Planning and Public Protection
<b>CONTACT OFFICER:</b>	Senior Licensing Officer <a href="mailto:licensing@denbighshire.gov.uk">licensing@denbighshire.gov.uk</a> 01824 706451
<b>SUBJECT:</b>	Update on review of Licensing Fees and Charges for 2013/14

**1. PURPOSE OF THE REPORT**

- 1.1 To up date Members on the ongoing progress on the review of the licensing fees and charges for 2013/14

**2. EXECUTIVE SUMMARY**

- 2.1 A review of the fees payable in respect of various types of licences and permits administered and enforced by the Licensing Section has been requested by Members.

**3. POWER TO MAKE THE DECISION**

- 3.1 Local Government (Miscellaneous Provisions) Act 1976 & 82  
Town Police Clauses Act 1847.

**4. BACKGROUND INFORMATION**

- 4.1 At the meeting in March 2013 Officers informed Members that they were due to attend a course on setting licensing fees and charges. Whilst the course proved to be very informative, Officers were left in no doubt as to the prolonged and complex nature of this process.
- 4.2 In addition to determining the actual cost for administering each function along with associated on-costs etc, Officers must consider the implications of a recent High Court judgement (*Hemmings –v- Westminster City Council*). The outcome of this judgement clarifies what costs can be taken into account when determining fees. For example only direct costs such as administration and compliance can be applied, whereas enforcement against unlicensed activity cannot be included in fees. A copy of the Hemmings judgement can be found at Appendix A.

- 4.3 The Court also re-affirmed earlier cases that Councils cannot make profits from licence fees. The ruling determined that provided the budget is reasonable and set to cover the expected costs, a surplus of income is legitimate, but that any deficits and surplus incurred must be taken into account when setting fees for the following year.
- 4.4. This is an important issue that is recognised countrywide, to the extent that an all Wales Licensing Technical Panel has been tasked with looking at fees and charges. Officers are actively contributing to this Panel with regular meetings scheduled throughout the remainder of the year.
- 4.5 Members will acknowledge that this is a prolonged and detailed process. However it is important that Officers take the time to ensure that the review is conducted thoroughly to avoid any future challenges. Furthermore Members are reminded that time spent perfecting our procedures for the setting of fees, will benefit us in the future, both in terms of fee reviews and reducing the risk to legal challenge.

5. **RECOMMENDATION**

- 5.1 Until such time as the Licensing Technical Panel have agreed on a generic set of procedures for setting fees and charges it is recommended that the current fee structure is retained for 2013/14 until the full review has been undertaken.