

**Community & Services Committee  
6 April 2017**

**Report for Agenda Item 7**

**Department: Finance & Regulatory**

**Environmental Health Services Fees and Charges Review**

**Purpose**

- 1 To review the fees structure for Environmental Health Services and to propose a new fee structure that reflects the level of actual work undertaken.

**Recommendation**

- 2 That the Community & Services Committee:
  1. **Note** the contents of this report
  2. **Recommend to Council** that the proposed Environmental Health fee structure be approved for public consultation.

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23/03/2017

Reviewed and Authorised by:



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23/03/2017

**Background**

- 3 The Food Act 2014 came into force in March 2016 which changed the way that Food Businesses and Council's implement the requirements regarding safe and suitable food.
- 4 An initial Environmental Health fee structure was implemented by QLDC in 2016, which enabled the initial transition of food businesses to the new system; however there are areas of work that need to be reviewed, to ensure fair and reasonable charges are implemented.
- 5 In particular, the fee structure did not include a registration fee for food businesses, as this was initially intended to promote businesses to work with

Council in the initial transition period. However, due to the requirements of the Food Act 2014, businesses that are registered with the Council are not always verified (inspected) by the Environmental Health Team. So effectively these businesses are utilising Council resources for registration with no cost recovery.

- 6 The Environmental Health Team also has a wider regulatory role than those relating to the Safety of Food. This role also requires a process of registration and inspection. As with the Food Act 2014 at times we also need to undertake further work with a business that is not incorporated into the existing fee structure.

### **Registration**

- 7 The Food Act 2014 requires that all food businesses are registered, this may be with the Ministry of Primary Industries or with the Territorial Authority.
- 8 Initially, applications for food business registering in the Queenstown Lakes district were free. This was to encourage businesses to transfer to the new legislative system earlier than required as an incentive. However, a year on, the level of work required to facilitate this process, in addition to the number of businesses required to register, which Council do not audit has been clarified. This has identified an area of work attributed to the user that there is no cost recovery.
- 9 The hourly rate is currently set at \$125 (including GST) for Environmental Health work undertaken; this rate has been set through the consenting process. The registration fee should reflect the level of work undertaken in which it is anticipated that the registration process will be approximately one hour. The fee should be thus be set at \$125 (including GST) with the ability to charge per hour for any extra work undertaken which includes but is not limited to processing an application to change the details registered or re-issue registration certificates.

### **Verification**

- 10 Verification is an audit of the businesses processes and includes a site visit, all of which is chargeable to the user.
- 11 At present we have a sliding fee scale for verification, which is based on two criteria. The first criterion is based on the grade that the business has obtained, the principle being that the better the grade the less the business pays. This is not only to encourage a business to take on board the important issues of food safety but also businesses that have poor procedures and history, will take the Environmental Health Officers more time.
- 12 The second criterion is based on the level (size) of the business, e.g. a coffee cart would be level 2 while a ski field will multiple outlets would be a level 4.
- 13 This system of charging a business according to their size and how well they are performing in relation to food safety is an efficient and fair process. It is proposed that this approach continues. However, these criteria will identify a minimum charge, based on an average minimum number of hours for good

premises. This is to enable us to manage the work undertaken for each registration. Under the Food Act businesses can register as a multisite, so under one registration there could be multiple restaurants and we need to ensure the work that is undertaken is cost recovered.

- 14 Where extra hours are required, to cover officer's work with businesses that may have difficult or complicated processes to verify, and depending on the degree of non-compliance, extra charges may be laid at an hourly rate.

### **New Businesses**

- 15 Previously, new businesses were charged a new premises fee. The charge was based on a review of their plans and processes, and included an opening visit.
- 16 Under the Food Act 2014 opening visits are not undertaken. Consequently, the increased fee for new businesses is now not warranted as we do not review building plans, provide advice on the development or undertake the opening inspections. There are also difficulties and confusion under the new Act on what is classified as a new business and what is an existing business.

### **Enforcement**

- 18 The Food Act has introduced additional requirements not previously required e.g. corrective actions close-out visits, unscheduled verifications, the serving of improvement notices, application to review improvement notice and amendments to a registration, etc.
- 19 The current fees structure does not incorporate these new requirements and needs to be considered in conjunction with the Revenue and Finance policy. It is recommended that these requirements are charged at an hourly rate.
- 20 Separate from the Food Act 2014, it is recommended that an hourly rate is also charged for any extra work undertaken as part of our regulatory requirements under other legislation such as the Health Act 1956. This is in relation to areas such as Camping Grounds, Funeral Directors, Hairdressers, and Offensive Trades.

### **Environmental Roles relating the benefit of the community**

- 21 Fees are not charged for a wide variety of roles that benefit the community. This includes general advice, education, investigating public health issues and promoting the role of Environment Health to the individuals in our District. The provision of this service without charge should remain.

### **Options**

- 22 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002:
- 10 Option 1 Do nothing - Fee Structure to remain the same

#### Advantages:

23 Businesses have no change in the fee structure that they have been advised and consulted on.

#### Disadvantages:

24 The current fees do not cover additional Food Act 2014 requirements for the user, which are not public good, but have a private benefit. Complex food safety matters and additional work in premises that have poor food standards will be charged at the same low rate that more straight forward matters and businesses demonstrating good levels of compliance. Work undertaken under other legislation is not covered under the fee structure and fees are not obtained from businesses for this additional work. New businesses are charged a higher fee which does not reflect the work undertaken. Under the current regime we would be outside of our Revenue and Financial Policy with user fees contributing 90% versus 70% as per our policy.

#### 25 Option 2 Consult on and adopt the proposed new fee structure

#### Advantages:

26 The use of an hourly rate for fees for additional roles and functions will provide a system for fees to be charged relative to the work undertaken.

27 The new structure will allow for the charging of services currently provided but which cannot be charged for under the present fees schedule.

28 Setting a lower fee for an improved grade will incentivise compliance.

29 By setting hours for the multisite based on the average minimal hours ensures fees are charged which reflect the work undertaken.

30 By removing the new business fee, charges will be fairer and be related to work undertaken.

#### Disadvantages:

31 There may be an increased cost to businesses that did not previously pay to register.

32 Businesses that require extra Environmental Health input will be required to pay further fees i.e. user pays.

33 Multisite will pay an increase in fees if they go above the hours allocated for this category.

34 This report recommends Option 2 for addressing the matter because it allows Council to charge for the services it provides to businesses, in accordance with Councils finance and revenue policy.

### ***Significance and Engagement***

- 35 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy Businesses will be interested in the Council's decisions, however the majority of businesses that comply with the requirements will only have minimal affects.

### ***Risk***

- 36 This matter relates to the strategic risk OR004 Serious injury to member of community as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because the agenda item relates to funding of the key regulatory services provided by the Council.

### **Financial Implications**

- 37 Financial implications associated with the recommended course of action will be minimal. It is anticipated that there would be some costs associated with the Special Consultative Procedure, which would be met through existing resources and budgets.

### **Council Policies, Strategies and Bylaws**

- 38 The following Council policies, strategies and bylaws were considered:
- The Food Grading Bylaw 2016
  - Finance and Revenue Policy
- 39 The recommended option is consistent with the principles set out in the named Bylaw.
- 40 This matter is included in the 10-Year Plan/Annual Plan
- 41 Community Outcomes – A safe and healthy community, that is strong, diverse and inclusive for people of all age groups and incomes.
- 42 Regulatory Functions and Services – Our Environmental Health Teams regulatory role is to promote, protect and improve the health of our community through the application of various legislative requirements.

### **Local Government Act 2002 Purpose Provisions**

- 43 The recommended option:
- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by ensuring that the performance of regulatory functions in undertaken in a way that is most cost effective for businesses and by helping to meet the true cost of providing core services which are consistent with the Regulatory Requirements.

- Can be implemented through current funding under the 10-Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

### **Consultation: Community Views and Preferences**

- 44 The persons who are affected by or interested in this matter are Food Businesses in the Queenstown Lakes District Community. Plus hairdressers, Camping Grounds, Funeral Directors and Offensive Trades etc.
- 45 Consultation is required under the Local Government Act 2002 in setting fees and it is recommended that this process Special Consultative Process be initiated.
- 46 The process for entering consultation on this matter requires the Committee to recommend to Council to do so. A formal statement of proposal on the matter will be developed which will be considered by Council at its April meeting.

20 April 2017	Statement of Proposal adopted for consultation
22 April 2017	Submissions Open
22 May 2017	Submissions Close
Early June 2017	Hearing of Submissions
29 June 2017	Final Decision

### **Legal Considerations and Statutory Responsibilities**

- 47 The Local Government Act 2002 and the Food Act 2014 require that charges made for regulatory services are adopted following a Special Consultative Procedure.

### **Attachments**

- A Proposed Fee Changes 2017/18  
B Revenue & Financing Policy Compliance