

Agenda Item No: 4
Report To: LICENSING, HEALTH AND SAFETY COMMITTEE
Date: 19th April 2007
Report Title: PROPOSED FEE LEVELS FOR 2007/8 FOR GAMBLING ACT 2005 RELATED APPLICATIONS
Report Author: Head of Environmental Services



Summary:	The report recommends the proposed fees for the premises licence fees for premises used for gambling for the financial year 2007/8.
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Key Decision: NO

Affected Wards: Not applicable

Recommendations: That the Licensing, Health and Safety Committee recommends the fees for premises licence fees for premises used for gambling as given in Appendix A to the Full Council.

Policy Overview: The process of setting the fees for premises licence fees for premises used for gambling is essential to ensure that operational costs are recovered and that Council budgetary objectives are met.

Financial Implications: The process of setting the fees is necessary to ensure that fees are set at a level that will enable the authority to recover the costs associated with the service provision.

Risk Assessment YES

Other Material Implications: Members should note generally that premises licence issued under the authority of the Gambling Act 2005 may be considered possessions and therefore Article 1 to Protocol 1 of the Human Rights Act 1998, the peaceful enjoyment of possessions, is relevant.

Exemption Clauses: Not applicable

Background Papers: None

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**Report Title: PROPOSED FEE LEVELS FOR 2007/8 FOR GAMBLING ACT
2005 RELATED APPLICATIONS**

Purpose of the Report

1. The report recommends the proposed fees for premises licence fees for premises used for gambling for the financial year 2007/8.

Issue to be Decided

2. Whether to approve the fees in Appendix A for recommendation to the Full Council.

Background

3. The Gambling Act 2005 Section 212 gives the Secretary of State power to make regulations prescribing the fees payable to the licensing authority. It also gives her the power to devolve to licensing authorities, in England and Wales, the freedom to set fees for premises licence applications, subject to any constraints she may prescribe. The Government has decided that for England and Wales, licensing authorities will determine their own fees for gambling premises licences but that the Secretary of State will prescribe the maximum fee payable for each category of licence.
4. After consulting widely and obtaining and considering information from licensing authorities and the gambling industry, the for Culture Media and Sport (DCMS) has prescribed maximum fees for each type of premises and each type of application for which a fee is payable. The maximum levels have been included in Appendix A in brackets for comparison purposes.
5. Local authorities have the authority to set fees for premises licences from within fee bands prescribed by DCMS. Each premises type will have separate fee bands.
6. There will be an initial fee to cover the cost of application and an annual "maintenance" fee.
7. The DCMS has asked Licensing Authorities to set fees to ensure full cost recovery and that the fee levels represent fairness and value for money for the gambling industry. All licensing authorities must set their fees upon a cost recovery basis only (Gambling Act Section 212 (2)(d)) and will be required to review their fee levels on an annual basis to ensure this.
8. The DCMS believe this approach will ensure fairness and value for money, while also allowing licensing authorities to fully recover the costs associated with premises licensing.
9. It is recognised that for the first fees setting exercise, costs will be estimates only, based upon the information available at the time. Actual costs may thus vary to some extent.
10. The Local Authorities Coordinators of Regulatory Services (LACORS) has published a fees toolkit to assist local authorities in compiling and has advised authorities that it believes trade bodies of gambling premises will be undertaking judicial review proceedings against authorities which it believes are not costing-out their fees on the basis of cost-recovery.
11. The DCMS has informed local authorities that the provisions of the Gambling Act 2005 Section 212 concerning fees will come into force on 21st May 2007. However, it has advised that licensing authorities can rely upon the Interpretation Act 1978 Section 13 to implement the provisions of Section 212 before it comes into force. This means that the power to set fees can be delegated prior to 21st May 2007. Clearly, the licensing authority will wish to do so and publish their fees in good time before 21st May 2007 i.e. the date when applications can be submitted to local licensing authorities.
12. The power to set fees can be delegated by the Council to a committee or an officer and this is subject to an additional report. It has suggested that the Licensing, Health and Safety Committee recommend the fees to the Full Council.
13. Fees must be set for all types of premises licences:

- Casinos
 - Bingo
 - Betting (off-course)
 - Tracks (on-course betting)
 - Adult Gaming Centres
 - Family Entertainment Centres
14. The fees must be determined for the different classes of premises as set-out in the fees regulations (See Gambling Act 2005 Section 212(2)(b) and SI 2007 / 479 paragraph 3) and cannot be based, for example, upon premises size, rateable value, etc.
- Fees must be set by each licensing authority for the following:
- Application fee for fast-track applications (transitional applications only)
 - Application fee for non fast-track applications (transitional applications only)
 - Application for (new) premises licence
 - Application to vary a premises licence
 - Application to transfer the licence (Sections 188 and 189)
 - Application for re-instatement of the premises licence (Sections 195 & 196)
 - Application for a provisional statement
 - Application for a premises licence for a premises which already has a provisional statement
 - Fee to accompany a request for a copy of the premises licence (Sections 190)
 - Fee to accompany a notification of change of circumstances (only relevant change is that of address - Section 186)
15. Start-up costs cannot be included in the calculations for setting premises licence fees. The Secretary of State wrote to all Chief Executives of local authorities to inform them that provision had been made in the Revenue Support Grant (RSG), as part of the EPCS (Environmental, Protective and Cultural Services) settlement, for the start-up costs related to the Gambling Act 2005.
16. The letter to Chief Executives stated that for the years 2004/2005 and 2005/2006 monies were provided for:
- Training of existing licensing officers, councillors and administrative staff
 - Staff/recruitment costs (where additional staff are required to fulfill gambling premises licence responsibilities.)
 - Additional software/hardware requirements
 - Transfer of records from Magistrates to authorities
 - Producing and consulting on the three year licensing policy statement

Fees and Income

17. The fees have been calculated by examining how the 'time' it takes to carry out the various tasks and who in the authority is likely to carry them out. The hourly rates of staff, including on costs for various members of staff were provided by our finance section. Then these hourly rates are fed in to a spreadsheet produced by the DCMS to calculate costs for each type of activity. For each application the processes involved are identified and the costs of each process are calculated and entered in to the spreadsheet provided by LACORS, which produces an average cost for each type of application and an annual fee.
18. The type of tasks involved in a non-fast track premises application for example, include, assistance to applicant (pre-application stage, include telephone advice, sending forms, etc), the checking of an application for completeness when received, checking all required documents are attached, processing the application fee, check, process, bank and reconcile payments, entering the information into our computer system including scanning if appropriate, contacting the applicant to clarify application or chase missing information if required, assess representations for relevance, undertake informal mediation, undertaking site visits where necessary, checking operating licence once issued, determining the licence, arranging a hearing, holding a hearing, notification of the decision, prepare and issue the licence, update the records/register (including the notification of Gambling Commission), appeal preparation and holding an appeal hearing.

19. The costs associated with appeals and hearings have been estimated and an estimation has been made as to the likelihood of these events occurring is entered into the final calculations. The risk of appeals and hearings occurring has been based on assumptions gathered through training on the Gambling Act 2005 and from the authority's experience of the frequency of hearings and appeals under the Licensing Act 2003.

20. Permits

Local authorities already issue a number of permits or registrations for activities under existing gambling legislation. Under the Gambling Act 2005, the Licensing Authority will be responsible for dealing with the following permits and registrations:

- Unlicensed Family Entertainment Centre Gaming Machine Permits
- Registration of small lottery licences
- Club Gaming Permits
- Club Gaming Machine Permits
- Licensed Premises Gaming machine Permits
- Prize Gaming Permits

Unlike premises licence fees, permit fees are prescribed by the Government and therefore licensing authorities have no discretion in this matter. For information only, at the time of writing, the only permit fees which have yet been prescribed are for Family Entertainment Centre Gaming Machines and Prize Gaming which are summarised below:

Fee Type Permit Type	Application fee	Renewal fee	Transitional Application Fee
FEC Gaming Machine	300	300	100
Prize Gaming	300	300	100

21. Miscellaneous Fees

	Change of Name £	Copy of Permit £	Variation £	Transfer £
FEC Permits	25	15	N/A	N/A
Prize Gaming Permits	25	15	N/A	N/A

Tracking costs

22. Licensing authorities have a number of ways in which we are able to track our costs. One method is to attach a piece of paper to each (or a sample of) licence applications and fill in the time it takes the different officers to complete work regarding the application. This would need to include costs of non licensing officers (such as legal) where their services are required. The time can thus be costed out using cost rates for officers which take account of all overheads, once the application is determined. Should there be future activity associated with the application such as compliance work, enforcement work, reviews etc. then the additional officer's time can be marked on the sheet.

Risk Assessment

23. The process of setting the proposed fees for premises licence fees for premises used for gambling is essential to ensure that operational costs are recovered and if no decision is taken, the Council budgetary objectives are unlikely to be met.

24. Should parts of industry believe the authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake judicial review proceedings. Should this arise, the authority would need to evidence how it arrived at the fee levels to demonstrate that they have been calculated on a cost recovery basis only.
25. Case law relating to fee levels in various licensing areas has agreed a general principle that licensing fees should not be used as a method of creating revenue and so setting a fee level that would result in an excess of revenue would leave the authority open to legal challenge.
26. LACORS is currently exploring what action it is appropriate for local authorities to take each year should they discover that they have either over or under-charged at the fee levels set. It has been suggested that the annual fees should be raised / reduced to reflect the over / under charge.

Consultation

27. Given the maximum fee levels were set by the DCMS on 21st February and the time taken to calculate the proposed fees, the time available for consultation has been limited. However a letter was sent out to operators listed in Appendix B, asking for their comments. Consultation responses.
28. The report has been reviewed by a member of legal services.
29. Only one reply was received and as the respondent had no premises in the Borough, they had no comment to make.
30. While Ashford Borough Council has shared its proposed fees with all the other authorities in Kent, we have yet to receive an indication of the fees set by our neighbours. Liverpool City Council has published its proposed fees and a comparison has been undertaken for guidance purposes. The proposed fees in Appendix A are broadly similar with those proposed by Liverpool.

Implications Assessment

31. As previously stated the recommendation does not represent a key decision. The consideration assessment indicates low impact in terms of human rights, legal and staffing implications. Note that the recommendation has been made with reference to key stakeholders.

Handling

32. The fees are to be reviewed by members at the Licensing, Health and Safety Committee meeting on 19th April 2007, before recommending the fees to the Full Council on 26th April. This will allow the authority to publish the fees by the 1st May 2007, three weeks in advance of the first date we can accept the first application.

Conclusion

33. The impact on income to the Council of these changes must be carefully monitored and annual reviews of fees must be continued to ensure that the service remains self-financing but avoids raising excessive revenue.
34. The only option presented to members has received little objection from the trade. The Licensing Section support this option, as the fee levels are estimated to cover our costs and are below the maximum limits set by the DCMS.

Portfolio Holder's Views

35. No comments received

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APPENDIX A: RECOMMENDED PREMISES LICENCE FEES

Premises Type	Transitional Fast-Track Application £	Transitional Non-Fast Track Application £	New Application £	Annual Fee £
Existing Casinos	n/a	n/a	n/a	n/a
New Small Casino	n/a	n/a	6285 (8000)	3575 (5000)
New Large Casino	n/a	n/a	7540 (10000)	7215 (10000)
Regional Casino	n/a	n/a	11880 (15000)	11140 (15000)

Bingo Club	250 (300)	1170 (1750)	2160 (3500)	670 (1000)
Betting Premises (excluding Tracks)	250 (300)	1170 (1500)	2160 (3000)	430 (600)
Tracks	250 (300)	940 (1250)	1690 (2500)	670 (1000)
Family Entertainment Centres	250 (300)	765 (1000)	1690 (2000)	580 (750)
Adult Gaming Centre	250 (300)	765 (1000)	1690 (2000)	670 (1000)

	Application to Vary £	Application to Transfer £	Application for Re-Instatement £	Application for Provisional Statement £	Licence Application (provisional Statement holders) £	Copy Licence £	Notification of Change £
Existing Casinos	n/a	n/a	n/a	n/a	n/a	n/a)	n/a)
New Small Casino	2580 (4000)	1500 (1800)	1260 (1800)	6285 (8000)	2240 (3000)	25 (25)	50 (50)
New large Casino	3410 (5000)	1760 (2150)	1985 (2150)	7540 (10000)	3700 (5000)	25 (25)	50 (50)
Regional Casino	5570 (7500)	4055 (6500)	4055 (6500)	11880 (15000)	5785 (8000)	25 (25)	50 (50)
Bingo Club	1475 (1750)	820 (1200)	820 (1200)	2160 (3500)	890 (1200)	25 (25)	50 (50)
Betting Premises (excluding Tracks)	1245 (1500)	820 (1200)	820 (1200)	2160 (3000)	890 (1200)	25 (25)	50 (50)
Tracks	1130 (1250)	820 (950)	820 (950)	1690 (2500)	890 (950)	25 (25)	50 (50)
Family Entertainment Centres	760 (1000)	820 (950)	820 (950)	1690 (2000)	735 (950)	25 (25)	50 (50)
Adult Gaming Centre	760 (1000)	820 (1200)	820 (1200)	1690 (2000)	890 (1200)	25 (25)	25 (25)

Ashford Borough Council's Licensing Authority proposes the following fees as shown in bold type in the table above. For ease of reference the maximum fees identified by DCMS that could be charged are shown in brackets.

APPENDIX B: ORGANISATIONS CONSULTED ON FEES

Overplus Ltd
38 Bank Street, Ashford, Kent, TN23 1BA

AMF Bowling
43-79 Station Road, Ashford, Kent, TN23 1PP

Association of Chief Police Officers
25 Victoria Street, London, SW1H 0EX

British Beer & Pub Association
Market Towers, 1 Nine Elms Lane, London,
SW8 5NQ

GALA Bingo
Glebe House, Vicarage Drive, Barking, Essex,
IG11 7NS

Association of British Bookmakers
Regency House, 1-4 Warwick Street, London,
W1B 5LT

British Holiday & Home Parks Association
6 Pullman Court, Great Western Road,
Gloucester, GL1 3ND

Leisure Link Group
3 The Maltings, Wetmoore Road, Burton on
Trent, Staffs

Cammegh Ltd
Old Surrenden Manor, Bethersden, Ashford,
Kent, TN26 3DL

BACTA
King's Cross House, 211 King's Cross Road,
London, WC1X 9DN

Ladbrookes
Ashford Truckstop Services, Waterbrook Lane,
Ashford, Kent, TN24 0GB

William Hill
37 Court Wurtin, Beaver Lane, Ashford, Kent,
TN23 1GD

Racecourse Association
Winkfield Road, Ascot, Berkshire, SL5 7HX

Betfair
PO Box 34467, London, W6 9WS

Victor Chandler Bookmakers
Leanse Place, 50 Town Range, Gibraltar

Ladbrookes
Imperial House, Imperial Drive, Harrow,
HA2 7JW

Leisure World
30 High Street, Ashford, Kent, TN24 8TE

British Amusement Catering Association
King's Cross House, 211 King's Cross Road, London
WC1X 9DN

BACTA
King's Cross House, 211 Kings Cross Road, London
WC1X 9DN

Bingo Association of Great Britain
Lexham House, 75 High Street North, Dunstable, Beds
LU6 1JF

Mecca Bingo
High Street, Ashford, Kent, TN24 8TF

British Casino Association
38 Grosvenor Gardens, London, SW1W 0EB

British Casino Operators
PO Box 55, Thorncombe, Chard, TA20 4YT

Automatic Amusements
6 Becketts Close, Hastingleigh, Ashford, Kent, TN25 5HS

British Greyhound Racing Board
32 Old Burlington Street, London, WS1 3AT

Panbet
8-9 Brookfield Court, Ashford, Kent, TN23 5ER

William Hill
23 Bank Street, Ashford, Kent, TN23 1DG

Licensed Victuallers Association
126 Bradford Road, Brighouse, West Yorkshire, HD6 4AU

Betfred
Spectrum, Benson Road, Birchwood, Warrington,
WA3 7PQ

William Hill PLC
7th Floor Milton House, Charter Row, Sheffield, S1 3FZ

Rank Group Gaming Division
Stafferton Way, Maidenhead, Berks, SL6 1AY