

Agenda Item No: 4
Report To: LICENSING COMMITTEE



Date of Meeting: 16 January 2024

Report Title: PROPOSED FEE LEVELS FOR GAMBLING ACT AND LICENSING ACT APPLICATIONS – 2024/25

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Portfolio Holder: Cllr. Liz Wright
Portfolio Holder for: Communities and Health

Summary: The report proposes fees for Gambling Act licences and notices for the financial year 2024/25.

Key Decision: NO

Significantly Affected Wards: Not applicable

Recommendations: That the Licensing Committee :-

- I. Recommends the proposed fees for gambling applications to full council – Appendix A
- II. Notes the annual licensing summary in relation to the Licensing Act 2003 and Gambling Act 2005 – Appendix B

Policy Overview: The process of setting the fees for licences 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 relevant costs associated with the service provision.

Legal Implications: The appropriate setting of fees is necessary to ensure that the Council do not act outside of current legislation and request costs which we are not entitled to recover from licensees. Failure to set fees appropriately opens the Council up to legal challenge.
Text agreed by Principal Litigator on 28th December 2023

Equalities Impact Assessment: The setting of fees in relation to these functions is not considered to cause any discrimination. The fees are set in accordance with government guidance and each application is processed on its individual merits.

Data Protection Impact Assessment:	N/A
Risk Assessment (Risk Appetite Statement):	The recommendation does not represent a key decision. There is a low impact in terms of human rights, the environment, legal and staffing implications.
Sustainability Implications:	N/A
Other Material Implications:	Members should note generally that some licences issued by the Council may be considered possessions and therefore Article 1 to Protocol 1 of the Human Rights Act 1998, the peaceful enjoyment of possessions, is relevant.
Exempt from Publication:	NO
Background Papers:	None
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Report Title:

PROPOSED FEE LEVELS FOR GAMBLING ACT AND LICENSING ACT APPLICATIONS – 2024/25

1. The report recommends the proposed fees for licences for the forthcoming financial year.
2. The Committee are asked to approve the following fees under the Gambling Act 2005 for recommendation to the full council (*Appendix A*), and to note the annual licensing summary (*Appendix B*).

Introduction and Background

3. The fees have been determined by examining how long is spent processing an application and who in the authority is likely to carry out the various processes.
4. The type of tasks involved in a premises application for example:
 - Assistance to the applicant (pre-application stage, including telephone advice, sending forms, etc.) and the checking of an application for completeness when received.
 - Checking all required documents have been submitted, processing the application fee, banking processes and reconciling payments.
 - Entering the information into our computer system including scanning if appropriate.
 - Contacting the applicant to clarify the application or chase missing information if required.
 - Assess representations for relevance and undertake informal mediation.
 - Carry out compliance visits and checking the operating licence once issued.
 - Determining the licence, arranging a hearing, holding a hearing and notification of the decision if required.
 - Prepare and issue the licence and update the records/register.
 - Appeal preparation and holding an appeal hearing, if necessary.

5. Licensing Related Fees

Fees set under the Licensing Act 2003 are set by Regulations, and are therefore not at the discretion of the council.

Where relevant the Licensing Team will provide feedback to the relevant government departments in order to aid the setting of these fees.

6. Gambling Related Fees

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 them the power to devolve to licensing authorities, in England and Wales, the freedom to set fees for premises licence applications, subject to any constraints they may prescribe. The Government decided that for England and Wales, licensing authorities will determine their own fees for gambling premises licences and temporary use notices but that the Secretary of State will prescribe the maximum fee payable for each category of licence.

Local authorities are able to set fees for premises licences from within fee bands prescribed.

There will be an initial fee to cover the cost of application and an annual "maintenance" fee.

Licensing authorities were asked 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 are required to review their fee levels on an annual basis to ensure this.

While the licensing authority can set fees for the applications in Appendix A, permit fees are prescribed by the Government and therefore licensing authorities have no discretion to set fees on these applications.

While the council is required to set fees for casino licenses, the Secretary of State determines which districts are able to accept an application for a casino.

It is proposed that this year the fees increase broadly in line with inflation except where fees are at their statutory maximum.

Implications and Risk Assessment

7. As previously stated the recommendations do not represent key decisions. The consideration assessment indicates low impact in terms of human rights, legal and staffing implications.
8. The process of setting the proposed licence fees is essential to ensure that operational costs are recovered. If no decision is taken, the council budgetary objectives are unlikely to be met.
9. If trade bodies or applicants 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.
10. 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. For example:

- *R v Manchester City Council ex parte King (The Times, 3 April 1991)* – established that local authorities may only charge reasonable fees for licences and not use them to raise revenue;

and

- *R v Westminster City Council ex parte Hutton (1985) LGR* – established the need to only take into account relevant material when setting the fees

11. Licence fees must be set at a level proportionate to the effective cost of the licensing procedure and must not be used as an economic deterrent or to raise funds. Councils must set fees that cover the costs directly associated with the licensing function. It is important therefore that council's fees are defensible and based on actual costs incurred.

Equalities Impact Assessment

12. The setting of fees in relation to these functions is not considered to cause any discrimination. The fees are set in accordance with Government guidance and each application is processed on its individual merits.

Consultation Planned or Undertaken

13. Any fees that require formal consultation will be subject to public notices once the fees have been agreed by Council.

Other Options Considered

14. The need to ensure fees cover local authority costs means that whilst various changes have been considered, the process is not open to other options

Reasons for Supporting Option Recommended

15. It is worth noting, that whilst licensing fees are set/adjusted annually, the council are able to consider the actual income and expenditure across a number of years, and can adjust fees in future years to 'correct' for any unexpected income or losses. As such should the fees proposed result in any unexpected 'excess' income then it will be possible to correct for this as part of future fee setting.
16. Accordingly, the recommended option is supported to ensure effective recovery of the costs incurred in processing and regulating the aforementioned licensing regimes.

Next Steps in Process

17. The fees recommended by this committee, will go to full council on 29 February 2024, and if accepted will come into effect on 1 April 2024.

Conclusion

18. The impact of these changes on income to the council must be carefully monitored. Annual reviews of fees must be continued to ensure that relevant costs are recovered and raising excessive revenue is avoided. The fees have been increased broadly in line with inflation.
19. A licensing summary for the period 1 January 2023 to 31 December 2023 has been prepared and is set out at Appendix B.

Portfolio Holder's Views

20. "I fully support all the proposals set out, which are fair and necessary."

Councillor Liz Wright

Contact and Email

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APPENDIX A: RECOMMENDED GAMBLING LICENCE FEES

APPENDIX B: LICENSING ACT & GAMBLING ACT ANNUAL SUMMARY 2023

APPENDIX A: GAMBLING RELATED LICENCE FEES

Premises Type	Application Type	Current Fee 2023/24	Proposed Fee 2024/25	Statutory Max Fee
New small casino	New application	8000	8000	8000
	Annual fee	4962	5000	5000
	Variation	3578	3757	4000
	Transfer	1800	1800	1800
	Re-instatement	1749	1800	1800
	Provisional statement	8000	8000	8000
	Provisional statement holders	3000	3000	3000
	Copy licence	25	25	Not set by LA
	Notification of change	50	50	Not set by LA
New large casino	New application	10000	10000	10000
	Annual fee	10000	10000	10000
	Variation	4730	4967	5000
	Transfer	2150	2150	2150
	Re-instatement	2150	2150	2150
	Provisional statement	10000	10000	10000
	Provisional statement holders	5000	5000	5000
	Copy licence	25	25	Not set by LA
	Notification of change	50	50	Not set by LA
Regional casino	New application	15000	15000	15000
	Annual fee	15000	15000	15000
	Variation	7500	7500	7500
	Transfer	5629	5910	6500
	Re-instatement	5629	5910	6500
	Provisional statement	15000	15000	15000
	Provisional statement holders	8000	8000	8000
	Copy licence	25	25	Not set by LA
	Notification of change	50	50	Not set by LA
Bingo club	New application	2994	3144	3500
	Annual fee	933	980	1000

	Variation	1750	1750	1750
	Transfer	1138	1195	1200
	Re-instatement	1138	1195	1200
	Provisional statement	2994	3144	3500
	Provisional statement holders	1200	1200	1200
	Copy licence	25.00	25.00	Not set by LA
	Notification of change	50.00	50.00	Not set by LA
Betting Premises (excluding tracks)	New application	3000	3000	3000
	Annual fee	600	600	600
	Variation	1500	1500	1500
	Transfer	1138	1195	1200
	Re-instatement	1138	1195	1200
	Provisional statement	2994	3000	3000
	Provisional statement holders	1200	1200	1200
	Copy licence	25	25	Not set by LA
	Notification of change	50	50	Not set by LA
Tracks	New application	2341	2458	2500
	Annual fee	933	980	1000
	Variation	1250	1250	1250
	Transfer	950	950	950
	Re-instatement	950	950	950
	Provisional statement	2341	2458	2500
	Provisional statement holders	950	950	950
	Copy licence	25	25	Not set by LA
	Notification of change	50	50	Not set by LA
Family Entertainment Centres	New application	2000	2000	2000
	Annual fee	750	750	750
	Variation	1000	1000	1000
	Transfer	950	950	950
	Re-instatement	950	950	950
	Provisional statement	2000	2000	2000
	Provisional statement holders	950	950	950
	Copy licence	25	25	Not set by LA

	Notification of change	50	50	Not set by LA
Adult Gaming Centre	New application	2000	2000	2000
	Annual fee	939	986	1000
	Variation	1000	1000	1000
	Transfer	1138	1195	1200
	Re-instatement	1138	1195	1200
	Provisional statement	2000	2000	200
	Provisional statement holders	1200	1200	1200
	Copy licence	25	25	Not set by LA
	Notification of change	50	50	Not set by LA
Temporary Use Notices	New application	259	272	500
	Copy licence	25	25	Not set by LA
Licensed Premises Gaming Machine Permit	Grant	150	150	Not set by LA
	Existing operator grant	100	100	Not set by LA
	Variation	100	100	Not set by LA
	Transfer	25	25	Not set by LA
	Annual Fee	50	50	Not set by LA
	Change of name	25	25	Not set by LA
	Copy of permit	15	15	Not set by LA
Lottery Registration	New Application	40	40	Not set by LA
	Renewal	20	20	Not set by LA
Licensed Premises Automatic Notification	Notification	50	50	Not set by LA
Club Gaming Permits	Grant	200	200	Not set by LA
	Grant (Club Premises Cert. holder)	100	100	Not set by LA
	Existing operator grant	100	100	Not set by LA
	Variation	100	100	Not set by LA
	Renewal	200	200	Not set by LA
	Renewal (Club Premises Cert. holder)	100	100	Not set by LA
	Annual Fee	50	50	Not set by LA
	Copy of permit	15	15	Not set by LA
Club Machine Permits	Grant	200	200	Not set by LA
	Grant (Club Premises Certificate holder)	100	100	Not set by LA

	Existing operator grant	100	100	Not set by LA
	Variation	100	100	Not set by LA
	Renewal	200	200	Not set by LA
	Renewal (Club Premises Cert. holder)	100	100	Not set by LA
	Annual Fee	50	50	Not set by LA
	Copy of permit	15	15	Not set by LA
Family Entertainment Centre Gaming Machine Permit	Grant	300	300	Not set by LA
	Renewal	300	300	Not set by LA
	Existing operator grant	100	100	Not set by LA
	Change of name	25	25	Not set by LA
	Copy of permit	15	15	Not set by LA
Prize Gaming Permits	Grant	300	300	Not set by LA
	Renewal	300	300	Not set by LA
	Existing operator grant	100	100	Not set by LA
	Change of name	25	25	Not set by LA
	Copy of permit	15	15	Not set by LA
	Annual Fee	20	20	Not set by LA

APPENDIX B:

LICENSING ACT AND GAMBLING ACT ANNUAL SUMMARY 2023

Licences/Permissions issued

Licence/Permission Type	Number Issued
Licensing Act 2003	
TENs (including late TENs)	520
Personal Licences	69
Premises - New	18
Premises - Transfer	30
Premises - DPS	80
Premises - Variation	5
Premises - Minor	8
Premises - Prov Statement	0
Premises - Review	0
Premises - Notification of Int	3
Club Certificates – New	0
Club Certificates - Variation	0
Hearings	0
Gambling Act 2005	
Lotteries – New	24
Lotteries - Renewal	71
Notification of gaming machines	4
Premises - New	0
TOTAL LICENCES/PERMISSIONS ISSUED	832

Premises Licences Issued

Bargain Warehouse, Unit C, Beaver Business Park, Beaver Road, TN23 7SH.
McCanns Brewery, Haffenden Farm, Bugglesden Road, Tenterden, TN30 6TG.
Perry Court Farm Shop, Canterbury Road, Boughton Aluph, TN25 4ES.
Honest Miller, The Street, Brook, Kent, TN25 5PG.
Upper Stone Vineyard, Upper Stone House, Rose Hill, Stone, Kent, TN30 7HH.
Funtasy Ltd, Unit 11, Brunswick Industrial Centre, Brunswick Road, TN23 1ED.
Kodoko Gurkha Distillery Ltd, Unit 5, Southdown Enterprise Park, Brunswick Road, TN23 1EL.
The Vinorium Ltd, Unit 14, The Glenmore Centre, Moat Way, Sevington, TN24 0TL.
Eureka Cafe, Unit 6, Eureka Place, Trinity Road, Boughton Aluph, TN25 4BY.
Peggotty's Tea Shoppe, 122 High Street, Tenterden, Kent, TN30 6HT.
Ham Street Wines Ltd, Ham Street Vineyard, Warehorne Road, Warehorne, TN26 2JT.
The George Community Pub, The Street, Bethersden, Kent, TN26 3AG.
Pinnhurst, Workshop at, Boat Lane, Aldington, Kent, TN25 7BL.
Pleasant Land Distillery, Building 3, Distillery at, Bank Farm, Bank Road, Aldington, TN25 7DF.
Miss Mollett's High Class Tea Room, 26 The Street, Appledore, Kent, TN26 2BX.

Naydo Chicken, Unit B, 18-20 Elwick Road, Ashford, Kent, TN23 1PF.
Organic Grape Spirit Ltd, 31-37, Unit 31, Arrowhead Road, Waterbrook Park, TN24 0FL.
The Tudor Peacock, The Square, Chilham, Kent, CT4 8BY.

Issued between 1 January 2023 and 31 December 2023.