

GAMBLING ACT 2005 - FEES
(Report by Head of Administration)

1. INTRODUCTION

- 1.1 The Committee will recall that regulations made under the Licensing Act 2003 fixed all of the fees for licences etc. granted under that Act, following concerns within the licensed trade that authorities would set fees too high if these were determined locally. Conversely authorities and subsequent independent reviews have suggested that not all of the expenditure being incurred by authorities is being recovered from fee income.
- 1.2 A different approach has been adopted by the Department for Culture, Media and Sport (DCMS) for the Gambling Act 2005. While fees for permits have been set nationally, maximum fees have been set for premises licences and licensing authorities have discretion to set their own fees, subject to the maxima not being exceeded. The purpose of this report is to invite the Committee to determine those fees for which they have responsibility

2. DETERMINATION OF FEES

- 2.1 The Council has delegated responsibility for the setting of fees to the Licensing Committee. The Council's Code of Financial Management permits the further delegation of fees to Directors and Heads of Service for services under their control, after consultation with the relevant executive councillor or chairman. However given that fees are being set for the first time under the Gambling Act, the Committee is invited to determine the amounts to be charged.
- 2.2 The DCMS has produced guidance on the setting of premises licence fees which draws attention to the fact that authorities have a duty to set fees on a cost recovery basis in accordance with the requirement in the Act to 'aim to ensure that income from fees as nearly as possible equates to the cost of providing the service to which the fee relates including a reasonable share of expenditure which is referable only partly or indirectly to the provision of that service'. The guidance requires licensing authorities to be transparent about the assumptions that they make in setting their fees.
- 2.3 The guidance also refers to the Treasury Fees and Charges Guide which includes advice on how services should be costed and what factors can and cannot be included in determining fee levels. The authority can include in the calculation the total cost of all of the resources used in providing the service (both direct and indirect costs, including a full proportionate share of overheads, insurance, depreciation and cost of capital). Start up costs cannot be taken into account (training, recruitment, additional software/hardware, transfer of records and the licensing policy statement) as this was provided

for in the revenue support grant. Annual fees can include the cost of compliance, enforcement and dealing with any illegal gambling, although the Gambling Commission will be publishing guidance to licensing authorities that advocates a risk based approach to enforcement.

- 2.4 The authority has discretion to set different fees for the various types of premises licence, subject to the maxima not being exceeded and for seasonal licences (although these are unlikely to be relevant in Huntingdonshire). An annual fee also has to be determined which is payable 30 days after the date that a licence is issued or comes into effect and annually thereafter. In determining the first annual fee, the guidance invites authorities to consider whether it is appropriate to set a lower fee than normal on the basis that work undertaken in determining the application will reduce the amount of work required in the following year.
- 2.5 The guidance recommends that fees are reviewed annually, at least at the outset, to ensure that income is not exceeding expenditure in any one accounting period. There is a recognition that it is difficult to forecast the amount of time required and that 2007/08 will not be a typical year.

3. TYPES OF FEE

3.1 The following fees are payable –

- Application fee - one-off, non-refundable fee upon application for new gambling premises licence, covering the cost of receiving, considering and determining the application, including staff costs, overheads, IT, legal and other central support costs, initial inspections, Licensing Committee costs, hearing costs and appeals;
- Application fee under transitional arrangements – fast track application by existing licence holder who accepts all default licence conditions and slow track application by existing licence holder who seeks to vary default conditions;
- First annual fee – payable within 30 days of licence issue or its coming into effect to cover regulatory costs in first year such as processing costs, plus review, inspection and enforcement activity;
- Annual fee – payable annually by licence holder to cover regulatory costs including, in addition to those referred to above, updating computer systems, registers and annualised costs of producing the 3 year licensing policy statement;
- Change of circumstance fee;
- Variation of licence fee;
- Transfer of licence fee;
- Re-instatement fee;
- Provisional statement fee;

- Copy of licence fee.

4. FEE LEVELS

- 4.1 LACORS have produced a tool kit to assist authorities in assessing the amount of work to be undertaken both initially and in subsequent years. Although an exercise has been undertaken to assess how much time will be spent, this remains difficult to predict. As the volume of licensed premises is likely to be low, costs will be proportionately higher per licence and one appeal could absorb most of the income derived in a financial year. Bearing in mind the level of on-costs charged to the licensing budget and the likelihood that most existing licence holders will opt for the fast track route on transition, it is suggested that the maximum fees be charged as set out in the attached appendix. From discussion with neighbouring authorities, it is anticipated that most will set fees at the maximum, the exceptions locally being Cambridge and Peterborough City Councils.

5. CONCLUSION AND RECOMMENDATION

- 5.1 Bodies representing licence holders have warned that they will challenge authorities on the fees that they have set if they consider these to be unreasonable. However, it is suggested that the maximum fee levels can be justified, although a reduced first annual fee seems reasonable given the time that will be spent in considering a premises licence on first application.

It is therefore

RECOMMENDED

that fees be set for premises licences and other charges as set out in the appendix attached.

Background Papers

DCMS guidance to licensing authorities on setting premises licence fees
LACORS tool kit for fee setting

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Appendix: Licensing Report – Gambling Act 2005 – Schedule of Fees.xls