

## ITEM NO: 6

<b>DECISION-MAKER:</b>	LICENSING COMMITTEE		
<b>SUBJECT:</b>	GAMBLING ACT 2005: ANNUAL REVIEW OF FEES FOR PREMISES LICENCES		
<b>DATE OF DECISION:</b>	2 <sup>ND</sup> JULY 2008		
<b>REPORT OF:</b>	SOLICITOR TO THE COUNCIL		
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### STATEMENT OF CONFIDENTIALITY

None

### SUMMARY

Section 212 Gambling Act 2005 requires the City Council as licensing authority to adopt a fees structure in relation to first applications, conversions and annual fees for premises licences. The current fee structure was adopted on 19<sup>th</sup> April 2007 and came into effect on 21<sup>st</sup> May 2007. This report represents the first annual review of fees.

### RECOMMENDATION

- (i) To adopt the current fee structure, as amended, in accordance with the table attached at Appendix 1.
- (ii) That the Licensing Authority set the fees for any applications in respect of a Large Casino at the maxima permitted under the legislation as detailed in Appendix 2.

### REASONS FOR REPORT RECOMMENDATIONS

1. The Council has a statutory obligation to adopt a fees structure under the Gambling Act 2005.
2. The Gambling Act 2005 came into effect on 21<sup>st</sup> May 2007 and introduced a new regulatory system to govern the provision of gambling in Great Britain other than the National Lottery and spread-betting.
3. Under the Act, all responsibility for gambling under these areas was transferred from the Licensing Justices to the local authority responsible for local licensing and the Gambling Commission in relation to the overall structure.

### CONSULTATION

4. There has been no specific consultation undertaken in relation to the preparation of this report.

### ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

5. None, the Council has a legal duty to set fees under the Act.

## DETAIL

6. On 19<sup>th</sup> April 2007 the Committee approved the initial fee structure covering the following areas:

- Licence application fee
- First annual fee
- Annual fee
- Notification of a change of circumstance fee
- Application to vary a licence fee
- Application to transfer a licence fee
- Fee for a copy of a licence
- Application for reinstatement of a licence fee
- Provisional statement application fee

It requested that the Solicitor to the Council bring a report back to the Committee after the first year of operation and in respect of the large casino once the Government had given authority to the Council to grant such a licence. In this regard secondary legislation permitting this was passed on 20<sup>th</sup> May 2008.

7. In each case, the fee determined by the Licensing Authority cannot exceed a maximum fee specified in the Regulations or in the Table of Maximum Fees in the schedule to the Regulations. It is open to the committee to set fees at whatever level up to the maxima that it considers appropriate. There is no provision for any automatic annual uplift in the Regulations. The Department for Culture, Media and Sport (DCMS) undertook an initial review of local authority premises licence fees in December 2007 which broadly said that the national fee structure was “about right” and caused no significant problems. . If the maximum fees are applied there will be no annual inflationary rise permitted.

8. At the initial stage when the function was transferred to the Council the resources required were unknown and, accordingly, the Committee decided it would be prudent to set the fees at the permitted maximum with a caveat that the Solicitor to the Council report back to the Committee after a year of operation with a view to revising the fee structure, if felt necessary.

9. As the Committee will appreciate, with the implementation of the new statutory responsibilities, there was a need to employ additional resources to administer the functions and the out-turn from the first year of transition has shown that fee income for the part year up to 30<sup>th</sup> March 2008 totalled £49,000 and direct expenditure totalled £30,000. Whilst income exceeded expenditure this does not account for set up costs or ongoing enforcement as it was the first year of the Act and the period of transition for the trade. It does not therefore give a fair indication of the likely ongoing workload. The balance of monies has been transferred to the licensing budget which is, by law, ring-fenced to licensing activities and can only be used for those activities.

10. As the Committee will be aware, because the first year was a year of transition and conversion of many extant licences there has been no enforcement. This will change as the regimes settles in. Accordingly, an allowance has to be made against future expenditure for this. It would not be prudent to go into any great detail with regard to the enforcement priorities or actions in this report. Accordingly, it is anticipated that a greater resource will be targeted on enforcement activity in the future with resultant costs.
- Additionally, there is currently an ongoing significant IT project to ensure that all applications can be dealt with online and that the public has greater access to the published register by way of the Council's website and naturally this IT development work has a significant cost attached to it.

Lastly, matters surrounding the Large Casino licence for the city remain to be resolved regarding processes and procedures. The Council has been given authority to award a licence but the process for considering applications for a Large Casino will be subject of a separate, specific report to this committee once the competition requirements and policy considerations are finalised.

There is, however, no doubt that the competition process will require additional, time limited resources.

11. In all the circumstances, it is recommended that the current fee structure be retained and that the Solicitor to the Council bring a further report to the Licensing Committee only if it is intended to revise the fee structure.

12. Large Casino

As previously stated the Licensing Authority has finally be granted authority to grant a licence following a "competition" process. Details of the exact requirements of the competition are governed to an extent by legislation and Government Guidance but there is significant flexibility given to each Authority for it to decide what is the most appropriate route. There will, however, have to be a two stage competition. The exact details of the competition criteria are likely to be included in the draft revised Gambling Statement of Principles which it is anticipated will be reconsidered by full Council this year. The setting of the appropriate fees fall to this committee.

It is likely to be a keenly fought contest with numerous operators submitting applications. All of these will be different as the Authority cannot prescribe the specific "best benefit" outcome it wishes to achieve. It can, naturally, give guidelines in the competition criteria. Each application will require expert analysis, including external advisors should it be deemed prudent to do so. Accordingly, it is believed that there will be a significant cost both in officer and consultant's time in ensuring a robust, equitable and justifiable decision is reached. In the circumstances it is fair to say that the maximum fees that the Council may set under the legislation may well not cover these costs.

It is likely that most operators will only submit an application for a provisional statement (maximum fee £10,000). The operator who is awarded the licence may only be charged a further maximum fee of £5,000 and an annual fee of £10,000 thereafter. In view of the above it is recommended that the maximum fees be set.

## **FINANCIAL/RESOURCE IMPLICATIONS**

### **Capital**

13. None.

### **Revenue**

14. None. The fees anticipated to be recovered on a yearly basis are estimated to cover the cost of providing the service. The budget is ring fenced to licensing matters and any excess will be placed in a reserve budget for use on future licensing expenditure should there be a future shortfall or towards new IT etc as indicated above.

### **Property**

15. None.

### **Other**

16. None.

## **LEGAL IMPLICATIONS**

### **Statutory power to undertake proposals in the report:**

17. Section 212 Gambling Act 2005 and subordinate legislation.

### **Other Legal Implications:**

18. None.

## **POLICY FRAMEWORK IMPLICATIONS**

19. None.

## SUPPORTING DOCUMENTATION

### Appendices

1.	Current table of fees, as amended
2.	Proposed Large Casino fees

### Documents In Members' Rooms

1.	None.

### Background Documents

Title of Background Paper(s)

Relevant Paragraph of the  
Access to Information  
Procedure Rules / Schedule  
12A allowing document to be  
Exempt/Confidential (if  
applicable)

1.	DCMS Report: Gambling Act 2005 – Review of Local Authorities' Premises Licence Fees (December 2007)	

**Background documents available for inspection at:** Office of the Solicitor to the Council, Civic Centre

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**FORWARD PLAN NO:** N/A

**KEY DECISION?** N/A

**WARDS/COMMUNITIES AFFECTED:**

None.