

Report Title: **Consultation on the setting of fees under the Gambling Act 2005**

Forward Plan reference number (if applicable): Not applicable

Report of: **Assistant Director (Enforcement) Robin Payne**

Wards(s) affected: **All**

Item for discussion

1. Purpose

1.1 To seek approval for the proposed fees contained in this document.

2. Introduction

2.1 It is a statutory requirement under the Gambling Act 2005, for the licensing Authority to set fees in respect of licences issued under the Act and to consult on the proposed fees with anyone who may be affected by or otherwise have an interest in the setting of the fees.

3. Recommendations

3.1 That the proposed fees be provisionally agreed as detailed at paragraph 14 and consent be given for formal consultation to commence. These fees will be applicable for the first year only and will be reviewed for the second year of operation.

Report Authorised by  **Niall Bolger , Director Urban Environment**

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4. Summary

4.1 The Gambling Act 2005 brings in major reforms to the structure of the law on gambling in this Country. It will bring in considerable responsibilities for local authorities in their role as the appropriate 'Licensing Authorities'. Every Licensing Authority must set its own fees following guidance and maximum amounts set by The Department of Culture Media and Sports. This report seeks consent to the proposed

fees required under the Act and approval to start consultation which will then be undertaken with the Gambling trade/Industry as required.

5. Reasons for any change in policy or for new policy development (if applicable)

5.1 This is a new requirement under the Gambling Act 2005.

6. Local Government (Access to Information) Act 1985

6.1 Guidance to Local Authorities under The Gambling Act 2005 issued by the Gambling Commission.

6.2 The Gambling Act 2005.

7. Background

7.1 Major reforms are being implemented under the Gambling Act 2005 which contains a new regulatory system to govern the provision of gambling in Great Britain. The Act gives major responsibilities to local authorities in their role as the 'Licensing Authority' to permit commercial gambling, a role previously carried out largely by the Licensing Justices (Magistrates). Every Licensing Authority has had to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act which has to be reviewed at a maximum of every three years.

7.2 The Gambling Act 2005 introduces a new system of regulation of all gambling in Great Britain, other than the National Lottery and spread betting. It repeals the Betting, Gaming and lotteries Act 1963, The Gaming Act 1968 and the Lotteries and Amusements Act 1976. It provides for local authorities called "licensing authorities in the Act to license premises within their areas which are used to provide facilities for commercial gaming. The Act also introduces a unified regulator for gambling, the Gambling Commission. The Commission will licence and regulate virtually all commercial gambling in Great Britain, including casinos, bingo, betting amusement arcades, larger lotteries and the manufacture, supply and use of gaming machines and gambling software.

7.3 The Act sets out three licensing objectives which licensing authorities and the Gambling Commission are required to pursue:

- To prevent gambling from being a source of crime and disorder
- To ensure that gambling is conducted in a fair and open way
- To protect children and vulnerable persons from being harmed or exploited by gambling.

7.4 As part of the new regime the Act provides for the following three main types of licence:

- **Personal Licences** ; these will be issued by The Gambling Commission and it will be a condition of each operating license that at least one person who holds a

specified "management office" in relation to the operating licence must hold a personal licence.

- **Operating Licences** ; these will be held by people who wish to provide facilities for commercial gambling and in general it will be an offence to provide such facilities without an operating licence. Operating licences will be issued and overseen by the Gambling Commission.
- **Premises Licences** ; these will be held by people who wish to use premises to provide facilities for commercial gaming or betting and in general it will be an offence to use premises for such a purpose without a premises license. A premises license may only be issued to a person who holds a valid operating licence. Premises Licences will be issued and overseen by licensing authorities.

7.5 Licences will be issued for a number of different premises types. These are:

- Casinos
- Bingo Premises
- Adult gaming centres
- Family entertainment centres
- Betting offices (i.e. betting premises excluding tracks)
- Tracks

7.6 In addition, this authority will have responsibility for the following applications:

- Temporary use notices (for temporary events)
- Provisional Statements
- Unlicensed Family Entertainment Centres
- Lottery registration documents
- Club gaming/gaming machine permits
- Permits for gaming machines on alcohol licensed premises.

8 Description

8.1 The Act gives the Secretary of State power to make regulations prescribing the fees payable to the licensing authority for gambling premises licences and permits as well as other miscellaneous fees. Members should note that fees for permits will be set centrally and will be dealt with in separate regulations. Licensing Authorities have no discretion in regard to fees for permits.

8.2 The Act does devolve to licensing authorities the freedom to set fees for premises licence applications subject to the fee maximums proposed by Central Government. The fees are in the form of a one off application fee followed by an annual fee and licensing authorities must set the fees subject to the following principles:

- To ensure that fees are set at a level that enables full cost recovery by the licensing authorities:
- To ensure fairness and value for money for the gaming industry.

8.3 The Secretary of State has applied maximum fees for a number of different activities relating to the premises and for payments to the licensing authority in relation to each of the following activities:

- Application for a licence
- Notification to the licensing authority that a licensee address has changed
- Application to vary an activity authorised by a licence, a condition attached to a licence, or another detail of a licence.
- Application to transfer a premises licence from one licensee to another.
- Application for reinstatement of a licence which has lapsed
- Application for a provisional statement (a type of provisional authorisation on the basis of which the holder may make a later application for a premises licence proper)

Licensing authorities will start accepting applications for gambling premises licences from 21st May 2007 and the new fees will be payable from that date.

8.4 The proposed fees for consultation are contained in this document and it is necessary to have the fees in place by 21st May 2007. This will have to be taken through the following stages as the Full Council does not sit until 21st May 2007 and the fees must be set prior to that date to enable applications to be received in accordance with the Act.

- Special meeting of Full Licensing Committee convened (April) to agree fees.
- Consultation with Gambling Industry on fees (in April/ May)
- Full Council 21st May 2007 (to delegate fee setting to Licensing Committee)
- Full Licensing Committee – June 2007 (date TBC)

9 Consultation

9.1 The Department of Media Culture and Sports requires the Licensing Authority to consult the following persons or groups on the proposed fees:

- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority : and
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

9.2 In addition , the fees will be placed on the Council's website together with supporting guidance.

10 Summary and Conclusions

10.1 Application Fee

This is a one-off, non refundable fee payable to the licensing authority upon application for a new gambling premises licence or one under the transitional arrangements for existing operators. The application fees will include the cost of administration associated with the licence application, including receiving and responding to representations from responsible authorities and interested parties, hearings and appeals. Once the licence is issued it will be of indefinite duration.

10.2 Under the 'TRANSITIONAL ARRANGEMENTS' separate fees will be payable for:

- **Transitional fast track** application fee – a fast track premises licence is where the existing operator (applicant) agrees to all the new default conditions being attached to the licence, this carries a fee maximum of £300.00. In determining this fee the Government has only taken into account the following steps, assistance to applicant; check necessary information: process application fee: load application onto computer system: update register and notify relevant persons of decision.
- **Non fast track** fee – an existing operator applies for a premises licence and seeks to vary the default conditions that would otherwise attach to the licence. The same fee maximum as applications to vary a licence are used in this instance to reflect the additional work involved. The application may attract input from responsible authorities and interested parties, they may require a site visit. There may be a hearing which may also be followed by an appeal.

10.3 First Annual Fee

This will cover the regulatory costs for the first year including processing costs, plus review, inspection and enforcement activity including dealing with any illegal gambling. The first annual fee for licences is payable within 30 days of the date on which the license was issued. These will also be paid to recover the cost of ongoing administration, inspection and enforcement activity required under the new regime. The fees include direct costs and indirect costs, including a full proportional share of overhead costs, insurance, depreciation and cost of capital charge. Licences granted under the transitional arrangements will attract the full annual fee from the outset.

10.4 Annual Fee

This is payable annually by all premises licence holders for the maintenance of their licence. This will cover the regulatory costs for the next year, inspections, holding reviews and enforcement activity, including dealing with any illegal gambling, the costs associated with processing the annual fee and annualised periodic costs incurred by the licensing authority in respect of its 3 year licensing policy statements. Subsequent annual fees are payable before each anniversary of the date on which the licence is issued. The licensing authority must revoke a

premises licence if a licensee fails to pay the annual fee, except where the authority thinks the failure to pay is due to an administrative error.

10.5 Miscellaneous fees

- Change of circumstances – payable by holders of premises licences when they submit a notification of a change of circumstances
- Variation of licence fees – payable by holders of premises licence when they apply to vary a licence
- Transfer of licence fee – Payable by holders of premises licences when they apply to transfer a licence from one operator to another.
- Re-instatement fees – payable by anyone applying for a licence to be re-instated.
- Provisional Statement fees – payable by anyone applying for a provisional statement (a statement from the licensing authority in advance of a full premises licence).
- An adjusted licence application fee payable subsequently by provisional statement holders
- Copy of licence fees- payable for the provision of a replacement copy of a premises licence.

11 Setting of Fees

11.1 Haringey in their role as a Licensing Authority are required to set fees that are cost recovery only. In setting the fees the Licensing Authority will be able to be in compliance with both the Gambling Act and the guidance provided by the Gambling Commission. This will enable the authority to be ready for the transitional arrangements and the proposed start date to receive applications by 21st May 2007.

11.2 The options open to each Licensing Authority are to:

- A.** Set the fee maxima proposed by Government initially and review the fees after a year. This stance is being discouraged by Central Government and the Industry alike; or
- B** Set its own fee levels according to estimated time and costs in carrying out the functions required to administer the Act ensuring that costs are within the fee maxima given by central government.

11.3 For ease of reference the maximum fees identified by DCMS that could be charged are shown in brackets.

Premises Licence Fees

Premises Type	Transitional Fast-Track Application	Transitional Non-Fast Track Application	New Application	Annual Fee
Bingo Club	300 (300)	1000 (1750)	1800 (3500)	750 (1000)
Betting Premises (excluding Tracks)	300 (300)	980 (1500)	1800 (3000)	480 (600)
Tracks	300 (300)	900 (1250)	1600 (2500)	750 (1000)
Family Entertainment Centres	300 (300)	800 (1000)	1100 (2000)	400 (750)
Adult Gaming Centre	300 (300)	800 (1000)	1100 (2000)	750 (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
	£	£	£	£	£	£	£
Bingo Club	1000 (1750)	800 (1200)	800 (1200)	1900 (3500)	800 (1200)	15 (25)	23 (50)
Betting Premises (excluding Tracks)	980 (1500)	800 (1200)	800 (1200)	1900 (3000)	800 (1200)	15 (25)	23 (50)
Tracks	900 (1250)	600 (950)	700 (950)	1500 (2500)	600 (950)	15 (25)	23 (50)
Family Entertainment Centres	800 (1000)	600 (950)	600 (950)	1400 (2000)	600 (950)	15 (25)	23 (50)
Adult Gaming Centre	980 (1000)	800 (1200)	800 (1200)	1900 (2000)	800 (1200)	15 (25)	23 (25)

12 Permits - THIS SECTION IS FOR INFORMATION ONLY.

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

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

THE 2 TABLES FOR PERMITS ARE STATUTORY FEES.

13 Analysis of possible income & expenditure

13.1 In arriving at these proposed fees, the authority has carried out a costing exercise and the outcomes are attached in **Appendix 1**. Expenditure takes into account time spent advising applicants, determining applications, hearings and appeals through to enforcement and compliance and review.

13.2 Expected Income and costs

Haringey has approximately 83 premises that will be requiring a premises licence. If all of these premises applied under a fast track application accepting all conditions attached the income (using the Option B fees) will be:

£24900 - assuming all current holders use the fast track path to convert their licences. This is a one off fee only for year one.

£41650 – this is 'the first annual fee' which is paid 30 days after licence is issued.

Total income £66,550.00

A further annual fee will become due in October 2008 (£41650.00) and each following year.

Total expenditure £83087.00. This figure represents the costs to the Council. The attached table shows that for the initial year the Council will just manage to recover the cost in administering this function. If the following years the main income will mainly be derived from the annual fees paid, this will give us a deficit of £19,940 in the coming years.

The fees are able to be reviewed year on year and it is our intention to review the fees after the first year in operation.

The table at Appendix 1 shows the income and expenditure for the proposed fees.

14 Recommendations

That the fees detailed above be noted and a decision made as to whether option A or B in paragraph 11.2 is taken forward to consultation. The Government guidance is that;

- A no surplus / no loss position is maintained. Any surplus generated would require additional expenditure which is not considered to be required.
- The Government guidance as detailed in paragraph 8.2 requires fairness and value for money for the gaming industry.

These fees will be set for year one and will be reviewed ready for the second year of operation which will enable us to take into account actual first year expenditure .

15 Comments of the Director of Finance

The report identifies two options (A and B) for setting fee levels in respect of gambling premises. Option A is the Government set statutory maximum fee level and option B is the fee level that would be required to fully recover estimated associated costs. The fee in respect of premises licence is for year 1 only and is not recurring. The estimated income from fees and the associated cost over a two year period is shown in the table below.

Period	Option A (£000)	Option B (£000)
Year 1		
Income	106	88
Expenditure	83	83
Net Surplus	(22)	(5)
Year 2		
Income	81	63
Expenditure	83	83
Net Deficit	2	20

Both options produce a surplus in year 1 due to the one-off income from premises licences in the transitional period. However, this position changes for year 2 when a deficit is recorded for both options, albeit for option A it's broadly neutral, as premises licence income is no longer available. Therefore in year 2 either the costs will have to be reviewed downwards or for option 2 fees levels increased or a combination of both in order to maintain full cost recovery.

16 Comments of the Head of Legal Services

16.1 |The Legal service has been consulted in the preparation of this report and the legal implications have been incorporated.

17 Equalities Implications

It is clearly seen by Government that gambling can impact on the lives of all in society and particularly the young and those people who may be vulnerable to gambling activities. It is an primary objective of both the Act and the local policy statement that such persons are protected.

18 Use of Appendices / Tables / Photographs

Appendix 1 – Costings exercise

APPENDIX 1 OPTION A	No. of premises	Government set			total	%	Permit fees	Total income	Expenditure	2008/09 (excluding inflation)	
		annual fee	transitional	total						Income	Expenditure Net
Bingo Club	1	£1,000	£1,000	£300	£1,300	0			Licencing team (£25pt*21*83)	£43,575	
Betting Premises (excluding Tracks)	75	£600	£45,000	£300	£67,500	3%	£18,416		Legal costs	£26,892	
Tracks	1	£1,000	£1,000	£300	£1,300	0	£-		Appeals	£10,000	
Family Entertainment Centres	1	£750	£750	£300	£1,050	0	£-		Overheads	£2,620	
Adult Gaming Centre	5	£1,000	£5,000	£300	£6,500	2%	£665			£83,087	£83,087
	83	£52,750	£24,900	£77,650	£105,731	£19,081	£9,000	£88,047		£83,087	£2,256
OPTION B		Lower	transitional	total							
Bingo Club	1	£750	£750	£300	£1,050	0			Licencing team	£43,575	
Betting Premises (excluding Tracks)	75	£480	£36,000	£300	£58,500	3%	£11,966		Legal costs	£26,892	
Tracks	1	£750	£750	£300	£1,050	0	£-		Appeals	£10,000	
Family Entertainment Centres	1	£400	£400	£300	£700	0	£-		Overheads	£2,620	
Adult Gaming Centre	5	£750	£3,750	£300	£5,250	2%	£532			£83,087	£63,147
	83	£41,650	£24,900	£66,550	£88,047	£12,497	£9,000	£19,940		£83,087	£19,940

OPTION A - EXPECTED INCOME IF USING FEE MAXIMUM SET BY GOVERNMENT.

OPTION B - EXPECTED INCOME IF SETTING OWN FEES WITHIN THE FEE MAXIMUMS