

Report Title: **Setting 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 decision

1. Purpose

To report back to Members the findings of the consultation on the proposed Gambling Fees and to seek approval for the proposed fees contained in this document. The 2005 Act and the Regulations under it set parameters for the fixing of the new fee regime. The fees provisionally set in Haringey were approved in April by the former Executive Advisory Board, but the matter has now been delegated to the Licensing Committee for final determination of the fee levels for 2007/08. The Licensing Committee discussed the initial proposals on 24 May 2007 and was minded to increase the proposed fees so as to ensure that they fully reflected the costs associated with this new regime but subject to considering the results of consultation with the industry before reaching a final decision.

2. Recommendations

2.1 That the Committee:

- (i) Notes the response to the consultation from William Hill Organisation set out at Appendix 1 to this report and the advice in relation to this response at paragraphs 8.4 and 8.5.
- (ii) Decides not to reduce the level of the first annual fees in order to ensure the full recovery of costs.
- (iii) Agrees the fee structure for 2007-08 set out in the Table under paragraph 10.10.
- (iv) Notes that fees for future years will be set after reviewing them, within the limits of the legislation, to ensure that the premises licensing regime keeps fee income in line with the costs of service provision as nearly as possible. Fee changes required only to account for inflation need not undergo a full review.

Report Authorised by: **Robin Payne , Assistant Director**



Contact Officer: Keith Betts , Commercial Group manager , Enforcement Service , x5525

3. Executive Summary

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 within the fee maximums issued by The Department of Culture Media and Sports (DCMS). This report seeks Members' final decision on the proposed fees for 2007/08 required under the Gambling Act 2005.

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

The fees support the work of the Licensing Service to promote the licensing objectives of the Gambling Act 2005. The licensing authority must carry out its functions with a view to promoting these licensing objectives. The licensed gambling industry in the Borough depends on local administration, inspection and enforcement to ensure that all local businesses continue to operate within the law and are able to understand the new legal requirements.

5. Local Government (Access to Information) Act 1985

Background papers used for the preparation of this report as set out below can be inspected by contacting the Licensing Manager, Daliah Barrett on 8489 8232:

(i) Guidance to Local Authorities under The Gambling Act 2005 issued by the Gambling Commission and (ii) The Gambling Act 2005.

6. Background

- 6.1 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 had to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three year period to which the policy applies. Haringey's Statement of Gambling Policy was adopted by full Council with effect from 15 January 2007.
- 6.2 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. The 2005 Act 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.

6.3 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.

6.4 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.

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

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

In addition, this authority will have responsibility for the following
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.

7 Rules for Setting Fees

- 7.1 The 2005 Act gives The Secretary of State the power to make Regulations prescribing the fees payable to the licensing authority for gambling premises licences and permits as well as other miscellaneous fees. These are The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 which only came into force on 21 May 2007. 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.
- 7.2 The Act does devolve to licensing authorities a very limited discretion to set fees for premises licence applications. This discretion is subject to the fees maximums prescribed by Central Government in the 2007 Regulations. The discretion is also subject to the requirement in the 2005 Act that Councils must aim to ensure that income from fees as nearly as possible equates to the costs of providing the relevant services. A specific fee can reflect a reasonable share of expenditure which is only partly or indirectly referable to the work undertaken in dealing with that specific type of application i.e. the costs of overheads and other general costs can be apportioned.
- 7.3 DCMS Guidance states that Councils should be transparent about the assumptions they have made in setting their fees. Fees should include a full proportional share of overhead costs and the costs of compliance and enforcement work. Councils cannot include “start-up” costs which have already been met through Central Government revenue support grant. Start-up costs include training for officers and Members, staff recruitment, additional computer software/hardware, transfer of Magistrates records and costs related to the first Statement of Gambling Policy.
- 7.4 The costs of these new responsibilities will be met by gambling operators through a one off application fee and an annual fee for gambling premises. The first annual fees are payable within 30 days after the date that a licence is issued or comes into effect. In determining first annual fees Councils are asked by DCMS to consider whether it would be appropriate to set a fee lower than the “ordinary” annual fee. In making this determination it is relevant to consider whether the work done by the Licensing Service in relation to the initial application for a premises licence would reduce the amount of work required in relation to that licence during the first year.
- 7.5 The Secretary of State has prescribed maximum fees for a number of different types of application relating to a premises licence and provided for payment of fees to the licensing authority in relation to each of these types of application:
- New Application for a licence
 - Notification to the licensing authority that a licensee’s address has changed
 - Application to vary an activity authorised by a licence, or 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)
- Other types of application, e.g. Transitional fast-track and non-fast-track applications, are explained below.

7.6 Licensing authorities will start taking applications for gambling premises licences from 21st May 2007. Fees will be payable from that date. The fees provisionally fixed by the Executive Advisory Board on 19 April have been charged to applicants. If different levels of fees are fixed by the Committee now, then there will be adjustments to recover/refund reflect the correct fee.

8 Consultation

8.1 DCMS asks Licensing Authorities to consult the following 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.

8.2 At the meeting on 24 May 2007 the Committee was recommended to go out to consultation on the basis of a fee structure set at the maximum (i.e. the cap in the Regulations) for all transitional fast track application fee but at level between 60 to 80% of the maximum for other fees.

8.3 Members questioned whether the recommended fee structure would fully recover the costs of the Licensing Service in dealing with applications and providing related services under the new 2005 Act regime. The Committee resolved to go out to consultation on an amended fee structure that increased to the maximum, under the Regulations, all fees for various types of application relating to betting shops (excluding tracks) but without changing the proposed fees for other types of gambling premises.

8.4 The consultation yielded only one response which was from William Hill Organisation (see Appendix 1), who were concerned that betting shops were being singled out for higher fees in all cases and questioned the justification for this. The specific point made was that it could not be more expensive in reality to deal with a new application for a betting shop than for a bingo establishment but this was the apparent logic of the fee structure being proposed.

8.5 Officers consider that it would be impossible to justify charging betting shops a greater proportion of the maximum fee levels within the Regulations, as compared to other types of gambling premises, because this would not reasonably reflect the amount of officer time spent on the various types of application. In the event of a legal challenge, it would not be possible to defend the consultation fee structure as consistent with the requirements under the legislation.

8.6 Although the fee structure approved for consultation on 24 May has real problems, officers have now taken account of the concerns expressed by Members about ensuring the full recovery of costs. These costs have been re-examined and while some are regarded as likely to be lower than previously thought, certain other costs have been added such as enforcement costs and the much higher staff/time costs of dealing with non-fast-track and contentious applications. The assumptions underlying the revised fee structure now recommended are explained in section 10 and Appendix 2 below.

9. Guidance on Fees from the Department of Culture Media and Sport

9.1 **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. Fees should include staff costs, overheads, IT, legal and other central support costs, initial inspections, Committee costs and hearing costs and appeals. Once the licence is issued it will be of indefinite duration.

9.2 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.

9.3 **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.

9.4 **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 unless Members agree to a reduction for the first year (see paragraphs 10.7 and 11.2 below).

9.5 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.

9.6 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.

10. Calculation of Overall Income and Costs for Gambling Premises Licences

10.1 As explained in paragraphs 7.2 and 7.3 above, the Council is under a statutory duty to ensure that income from application fees equates as nearly as possible to the costs of providing the relevant services. Since the fee structure for 2007/08 is being fixed before the full costs for the year can be known, officers have had to make assumptions about the number and types of applications that would be processed and the number of matters that might be subject to objections, hearings and appeals to the Magistrates. These assumptions are set out at Appendix 2 to this report. Officers have tried to make them as realistic as possible bearing in mind what is already known about the pattern of applications received to date and past experience of costs under the 2003 Act.

10.2 Starting with the "Income Schedule" in Appendix 2, it can be seen that there are currently 78 gambling premises of different types in the Borough. 67 are betting shops, 8 are adult gaming centres and there is one bingo premises, one track and one family entertainment centre (open to under 18s). All of these existing 78 premises will be making fast track applications under the transitional provisions to convert their old

licences. From the "Costs Schedule" it is evident that the cost in terms of officer time (18 hours @ £25 per hour) of dealing with the average fast track application is £450 but since the Regulations cap this fee at £300 the additional costs must be apportioned and recovered from other types of fee, primarily the first annual fees.

- 10.3 Reverting to the "Income Schedule", it has been assumed that there will be two applications to vary the terms of a betting shop premises licence during the year (e.g. to amend a condition). The costs of handling such an application are likely to be much greater in terms of officer time (54 hours each) because such an application would have to be advertised and be subject to possible objections. It has been assumed that any objections could be resolved without a hearing before Members but, even so, the time taken for each application is estimated at £1,350, three times that for processing a fast track application that will not be subject to objections.
- 10.4 It has also been assumed that there will be two applications for new betting shop premises and this reflects what has actually happened, to date. These applications have resulted in objections (relevant representations) that are unlikely to be resolved without a hearing before Members. This will be considerably more time consuming than the applications to vary. The estimate is 108 hours per application i.e. a cost of £2,700. This is twice the figure for applications to vary and 6 times that for fast track conversions.
- 10.5 No other significant applications have been assumed for 2007/08. Applications for a copy licence would take about 35 minutes of an officer's time to deal with (£15) and notifications of change in details would take 55 minutes (£23). A few such applications would make little difference to the costs/income balance.
- 10.6 The other major costs for the Licensing Service, as set out in the Costs Schedule, are the costs of legal advice on gambling matters (i.e. applications, reports and Committee attendance) which are estimated at £18,000. This does not include the costs of one assumed appeal to the Magistrates against a decision of the Licensing Authority which are estimated at £9,000 including the cost of Counsel. The costs of enforcement activity are put at £4,000 and other non-legal office overheads at £4,045.
- 10.7 Using the assumptions above, it can be seen that the total costs of the provision of services relating to gambling premises licence applications will be £78,245. In order to be sure of recovering these costs from fee income, it will be necessary to set the first annual fees at a level which is 90% of the maximum set in the Regulations for each type of gambling premises. Fees set at this level would bring in total income of £78,435 for the year
- 10.8 Officers consider that the maximum limits in the Regulations for each type of application for each different type of premises are a reasonably fair and accurate reflection of the relative costs involved. So, for example, a new application for a bingo hall (capped at a £3,500 fee) would be appreciably, but not very greatly, more time consuming than an application for a new betting premises (capped at a £3,000 fee). With the exceptions noted in the next paragraph, recovery of 90% of the maximum fees for each type of application/premises represents a reasonably fair and accurate apportionment of the relevant costs.

10.9 The main exception, as explained in paragraph 10.2 above, is in relation to the fees for fast track transitional applications which have been capped at £300 for all premises when the true average cost is likely to be £450 per application. As explained above at paragraph 10.5, the copy licence fee has a cap (£25) well above the likely actual cost (£15).

10.10 Having regard to the factors explained above and the close balance between anticipated fee income (£78,435) and service costs (£78,245) for 2007/08, officers are recommending that Members agree the fee structure set out in the table below.

Premises Licence Fees

Premises Type	Transitional Fast-Track Application	Transitional Non-Fast Track Application	New Application	Annual Fee
Bingo Club	300 (300)	1575 (1750)	3150 (3500)	900 (1000)
Betting Premises (excluding Tracks)	300 (300)	1350 (1500)	2700 (3000)	540 (600)
Tracks	300 (300)	1125 (1250)	2250 (2500)	900 (1000)
Family Entertainment Centres	300 (300)	900 (1000)	1800 (2000)	675 (750)
Adult Gaming Centre	300 (300)	900 (1000)	1800 (2000)	900 (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	1575 (1750)	1080 (1200)	1080 (1200)	3150 (3500)	1080 (1200)	15 (25)	23 (50)
Betting Premises (excluding Tracks)	1350 (1500)	1080 (1200)	1080 (1200)	2700 (3000)	1080 (1200)	15 (25)	23 (50)
Tracks	1125 (1250)	855 (950)	855 (950)	2250 (2500)	855 (950)	15 (25)	23 (50)
Family Entertainment Centres	900 (1000)	855 (950)	855 (950)	1800 (2000)	855 (950)	15 (25)	23 (50)
Adult Gaming Centre	900 (1000)	1080 (1200)	1080 (1200)	1800 (2000)	1080 (1200)	15 (25)	23 (50)

10.11 In the Table above the maximum fees fixed in the Government Regulations are shown in brackets. The recommendation is to set all types of fee at 90% of the legal maximum with the exception of (i) fast track transitional applications to be charged at the maximum £300 and (ii) copy licence fees.

11. First Annual Fees

11.1 DCMS has asked Councils to consider whether it would be appropriate to set a fee lower than the "ordinary" annual fee. In making this determination it is relevant to consider whether the work done by the Licensing Service in relation to the initial application for a premises licence would reduce the amount of work required in relation to that licence during the first year.

11.2 The first annual fee will cover the regulatory costs for the first year including processing costs, plus review, inspection and enforcement activity including dealing with any illegal gambling. As explained at paragraph 10.7 above, it will be necessary to set the first annual fees at 90% of the maximum figures set in the Regulations in order to ensure that these costs are fully recovered.

12. Future Years

12.1 After 2007/08, the main income will be from the annual fees payable each year by all premises licence holders to cover regulatory costs. It is difficult to estimate now whether the loss of transitional fee income will substantially match the reduction in the costs/work involved in administering the 2005 Act system. A report will be made to the Committee in 6 months time on the proposed fee levels for 2008/09 in the light of the experience gained in 2007/08.

13. Recommendations

13.1 That the Committee:

- (i) Notes the response to the consultation from William Hill Organisation set out at Appendix 1 to this report and the advice in relation to this response at paragraphs 8.4 and 8.5.
- (ii) Decides not to reduce the level of the first annual fees in order to ensure the full recovery of related costs.
- (iii) Agrees the fee structure for 2007/08 set out in the Table under paragraph 10.10.
- (iv) Notes that fees for future years will be set after reviewing them, within the limits of the legislation, to ensure that the premises licensing regime keeps fee income in line with the costs of service provision as nearly as possible. Fee changes required only to account for inflation need not undergo a full review.

14. Comments of the Chief Finance Officer

The councils external income policy states that the income should (at least) cover the full cost, including all overheads, of the service.

This report recommends setting the fees at 90% of maximum allowed under government regulations (except for fast track transitional, notification of change and copy licences).

For 2007/08 all estimated costs would be recovered leaving a small surplus of £190.

For 2008/09 and future years a further review will need to be carried out to determine the impact of fee income and cost both of which should reduce and so retain the principal that income should recover all costs.

15. Comments of the Head of Legal Services

15.1 The Legal Service has been consulted in the preparation of this report and the legal implications have been incorporated.

16. Equalities Implications

16.1 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 a primary objective of both the Act and the local policy statement that such persons are protected. The Gambling Act supports national and local guidance in promoting the three licensing objectives, including: preventing gambling from being a source of crime or disorder, being associated with crime and disorder or being used to support crime.

17. Use of Appendices / Tables / Photographs

Appendix 1 – Response to consultation from William Hill

Appendix 2 – Assumptions about Income and Costs for 2007/08.

APPENDIX I

RESPONSE TO CONSULTATION FROM WILLIAM HILL ORGANISATION

From: Colin Bute [mailto:cbute@williamhill.co.uk]
Sent: 01 June 2007 15:14
To: Barrett Daliah
Subject: RE: CONSULTATION ON GAMBLING FEES

Hi Daliah

The only comment I have on the fees is that for Betting Premises (excluding tracks) Haringey is proposing to charge the maximum. However, other than Transitional Fast Track applications all other premises fees are proposed to be set at a figure that is lower than the maximum chargeable.

No doubt Haringey have carefully evaluated the costs but I cannot understand why, for example, it is more expensive to make a new application for a Betting Premises than a Bingo Club.

Again using the example of a Bingo Club the Annual Fee is reduced by 25% but Betting Premises remain at the maximum chargeable. Is it Haringey's view that, proportionately, there is more documentation and compliance required for Betting Premises.

It was also proposed by DCMS that the first Annual Fee should be subject to a 25% discount in all cases. This was on the basis that the first Annual Fee is payable by the 1st October 2007.

Regards

Colin Bute

COSTS SCHEDULE

Application Costs

78 fast-track transitional @ £25 per hour x 18 hours = (£450 each)	£35,100
2 new applications for variations for betting shops @ £25 per hour x 54 hours = (£1,350 each)	£2,700
2 new contested applications for betting shops @ £25 per hour x 108 = (£2,700 each)	£5,400
Total	<u>£43,200</u>

Other Costs

Total legal work (except appeal costs)	£18,000
Appeal costs	£9,000
Other non-legal overheads	£4,045
Enforcement	£4,000
Total	<u>£35,045</u>
Total costs of relevant service provision 2007/08	£78,245