

**Sandwell Metropolitan Borough Council**

**Licensing Committee**

**11<sup>th</sup> May 2007**

**Gambling Act 2005 - Fees**

**1. Summary Statement**

- 1.1 Further to the report submitted to this Committee on 23<sup>rd</sup> March 2007, the Council at its meeting on 6<sup>th</sup> March 2007 decided to delegate the responsibility for setting fees and charges under the Gambling Act 2005 (the 2005 Act) to the Licensing Committee, subject to consultation with the appropriate Cabinet Member on budgetary implications.
- 1.2 The setting of fees is provided for by Section 212 of the 2005 Act. The Government has decided that the premises licences fees will be set via a series of bands, with a prescribed maximum. Licensing Authorities will be able to select precise fees from within the bands, limited to cost recovery. This will allow authorities flexibility, and the industry a degree of certainty. The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (The Fees Regulations) enabling the Authority to set the fees will come into force on 21 May, 2007. The Licensing Committee must now set the premises fees in readiness for receipt of applications commencing 21st May, 2007. The new licences become live and take effect from 1st September, 2007, when the transitional period ends.
- 1.3 The Fees Regulations make provision for the fees payable to licensing authorities in England and Wales under the 2005 Act in relation to premises licences issued under the Act. The Regulations provide for licensing authorities to determine separate fees for different types of activities associated with licences (eg application for a licence; application to vary a licence; etc) and the annual fees payable in respect of a licence. The Regulations also provide for licensing authorities to determine separate fees for different classes of premises licence (eg those relating to casinos, bingo halls, betting shops etc). The Regulations provide for the fees to be determined by licensing authorities in England and Wales, subject to maximum fees specified in the Regulations. Under section 212(2)(d) of the 2005 Act, in determining fees, licensing authorities must aim to ensure that the income from the fees as nearly as possible equates to the cost of providing the service to which the fee relates.

1.4 It is anticipated that the resource cost will be £45,000 and the fees have been set to ensure that the income from fees as nearly as possible equates to the costs of providing the service to which the fee relates. Appendix A shows the fees proposed and the maximum fees are shown in brackets.

*Further details are attached for your information*

## 2. **Recommendations**

2.1 That members consider and approve the proposed premises licences fees relating to the Gambling Act, 2005, as set out in Appendix A, for the first year of operation 2007/08; and that the fees be reviewed at the end of a full year of operation in accordance with Government guidelines.

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## Gambling Act 2005 - Fees

### 3. Strategic Resource Implications

3.1 It is difficult for Licensing Authorities to develop a completely accurate cost prior to the new Act coming into force. However, it is anticipated that any resource costs are likely to be largely legal and administrative, but will include the cost of any inspection and enforcement costs being undertaken by the Licensing Team itself. The following additional costs have been identified:

	£
• Cost of 1 Licensing Officer, or equivalent of at scale 4/5	= 20K
• Legal	= 15K
• Equipment	= 5K
• Training	= 3K
• Management Costs	= 2K
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	£ 45K

The gambling licence income should, for the most part, offset these resource costs, although it may be necessary to bring a further report, should the enforcement element be greater than anticipated.

3.2 The Fees Regulations set out the maximum permitted fees the Licensing Authority can levy, related to bands and categories of premises. The use of maxima are to allow the Licensing Authority to set fees that cover all reasonable costs of premises licensing but should not be used to effect raising revenue beyond reasonable costs. During national consultation, consultees in the gambling sector expressed concern that Licensing Authorities would set the maximum fees, without due regard to the actual cost of administration. Further, the Minister for the Department for Culture, Media and Sport (DCMS) has made it absolutely clear that there will be a robust process of review and audit which will require Licensing Authorities to fully justify fees levied as being equivalent to actual costs of service delivery, and that this is not to be seen as a money making exercise. The Minister has further indicated that the fee maxima may be amended so that they achieve the desired policy objective of reasonable cost recovery. The maximum permitted fees are illustrated in brackets in Appendix A.

3.3 Assessing all the information available at the present time and taking into consideration that costs may be audited and asked to justify by the DCMS, the proposed levy of fees, which are well below the maxima as illustrated in Appendix A, will generate a predicted income of £43 K in the financial year 2007-2008, as illustrated in Appendix B.

#### 4. **Legal and Statutory Implications**

4.1 Section 2 of the Act provides that the Council is a Licensing Authority. The 2005 Act places a duty on local authorities to undertake the licensing functions specified in the Act.

4.2 Section 212(1) of the 2005 Act states that regulations prescribing a fee may provide for the amount of the fee to be determined by a licensing authority, and may, if they make provision, specify constraints on a licensing authority's power to determine the amount of the fee.

Section 212(2) of the 2005 Act states:

'Where provision is made for the amount of a fee to be determined by a licensing authority, the authority-

- (a) shall determine the amount of the fee,
- (b) may determine different amounts for different classes of case specified in the regulations (but may not otherwise determine different amounts for different cases),
- (c) shall publish the amount of the fee as determined from time to time,
- (d) shall aim to ensure that the income from fees of that kind as nearly as possible equates to the costs of providing the service to which the fee relates (including a reasonable share of expenditure which is referable only partly or only indirectly to the provision of that service) and
- (e) For the purposes of subsection (2)(d) a licensing authority shall compare income and costs in such manner, at such times and by reference to such periods as the authority, having regard to any guidance issued by the Secretary of State, think appropriate'.

4.3 The Gambling (Premises Licences Fees) (England and Wales) Regulations 2007 will come into force on 21 May, 2007. The maximum fees are shown in brackets in each case in the table contained in Appendix A.

#### 5. **Implications for the Council's Corporate Priorities**

5.1 The Gambling Act 2005 has three licensing objectives, which are highly pertinent to the Council's corporate priorities, these being:

- a. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- b. Ensuring that gambling is conducted in a fair and open way;
- c. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

5.2 The proposals contained within the report would have implications on the following corporate priorities:-

- (i) Safer, Cleaner, Stronger Communities - The Licensing function under the Gambling Act 2005 is key to the partnership working with “responsible Authorities” such as the police, fire, child protection, planning, and other agencies dealing with issues of safety, crime or disorder, anti-social behaviour, protecting the young and vulnerable in the community, as relating to the licensable activities associated with gambling. Whilst the legislation and duties relate to the whole of Sandwell, members of all local communities will benefit from the additional controls that the Act will place on gambling activities associated with premises in the community.
- (ii) Strengthening the protection and support for vulnerable children - There is always the potential for children to gain access to gambling establishments, which this new legislation will help to control further.

## 6. **Background Details**

- 6.1 Further to the report submitted to this Committee on 23<sup>rd</sup> March 2007, the Council at its meeting on 6<sup>th</sup> March 2007 decided to delegate the responsibility for setting fees and charges under the 2005 Act to the Licensing Committee, subject to consultation with the appropriate Cabinet Member on budgetary implications.
- 6.2 The Committee is advised that the transitional period for the 2005 Act commenced from 1<sup>st</sup> January 2007, when existing gambling operators have been able to submit advance applications to the Gambling Commission for the required number of operators and personal licences. To ensure they can continue working beyond 1<sup>st</sup> September 2007, applications must have been with the Commission before 27<sup>th</sup> April 2007.
- 6.3 The Committee is reminded that in terms of the Council as the Licensing Authority, the transitional period for the 2005 Act commences on 21<sup>st</sup> May 2007. From this date, those applicants that have already made their applications to the Gambling Commission will become eligible to apply to the Licensing Authority to convert their existing licences/permits/

registrations into new style premises licences/permits for the particular category of gambling that they wish to provide. To ensure they can continue working beyond 1<sup>st</sup> September 2007, applications must be made to the Licensing Authority by 31<sup>st</sup> July 2007.

- 6.4 The transitional period ends on 1<sup>st</sup> September 2007, when the new licences will take effect. Under the transitional arrangements, existing operators will be able to apply for either:
- “Fast Track” premises licence, where the applicant agrees to all the new DCMS default conditions attaching to the licence, or
  - “Non Fast Track” premises licence is where the applicant seeks to vary the DCMS default conditions that would otherwise attach to the licence.
- 6.5 The “Fast Track” licence application is similar to the grandfather rights of the old licensed premises and cannot be the subject of public representations. Applicants will only be required to send their application to the Licensing Authority and will not be required to notify the Responsible Authorities. On receipt of the application, the Licensing Authority must issue the licence without a hearing and have no discretion to add any additional conditions or alter any of the default conditions.
- 6.6 In the case of a “Non Fast Track” application, applicants will be required to notify each of the Responsible Authorities about their application including the Gambling Commission. In addition, the applicant will have to advertise the application by displaying a notice at or on the premises, as well as advertising the application in a local newspaper. If representations are made about the application during the statutory notice period, then this will have to be brought before the Licensing Committee to determine.
- 6.7 The cost of determining and issuing premises licences will be met through an application fee and first annual fee payable within one month of issue. The fees will cover 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.
- 6.8 Annual fees, thereafter, will also be paid to cover the cost of ongoing administration, inspection and enforcement activity required under the new licensing regime. This fee will include direct and indirect costs, including a full proportional share of overhead costs, insurance, depreciation and cost of capital charge.

- 6.9 Licensing Authorities will be required to review their fees annually to ensure that the income from the premises licences fees in any one accounting period (i.e. in any full year) does not exceed the full costs incurred by the authority in carrying out their relevant functions.
- 6.10 There are other prescribed fees which will be payable to the Licensing Authority for certain permits, which include
- Unlicensed Family Entertainment Centre Gaming Machine Permits
  - Registration of small lottery licences
  - Club Gaming Machine Permits
  - Club Gaming Permits
  - Prize Gaming Permits
  - Licensed Premises Gaming Machine Permits
  - Licensed Premises Notification

It should be noted the Committee has no discretion on these fees, the remainder of which the DCMS have yet to finalise and which will be set centrally, and dealt with in separate regulations.

### **Source Documents**

- A/ Gambling Act 2005
- B/ Guidance to Licensing Authorities April 2006 (Gambling Commission)
- C/ Report to Cabinet Member for Community Safety and Partnerships [22<sup>nd</sup> September 2006] "Gambling Act 2005 Implementation – Approval of Statement of Principles"
- D/ The (Gambling (Premises Licence Fees) (England and Wales) Regulations 2007.
- E/ Explanatory Memorandum to The (Gambling (Premises Licence Fees) (England and Wales) Regulations 2007
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**Table of proposed fees**

Type of application	Number of premises	Conversion application fee for fast track application	Conversion application fee for non-fast track application	Non-conversion application fee in respect of other premises	Non-conversion application fee in respect of provisional statement premises	First annual fee	Fee for application to vary licence	Fee for application to transfer a licence	Fee for application for reinstatement of a licence	Fee for application for provisional statement	Copy licence	Notification of change
Converted casino premises licence	2	<b>£250</b> (£300)	<b>£1,000</b> (£2,000)			<b>£1,000</b> (£3,000)	<b>£750</b> (£2,000)	<b>£500</b> (£1,350)	<b>£500</b> (£1,350)		<b>£15</b> (£25)	<b>£25</b> (£50)
Bingo premises licence	4	<b>£250</b> (£300)	<b>£900</b> (£1,750)	<b>£1,500</b> (£3,500)	<b>£600</b> (£1,200)	<b>£400</b> (£1,000)	<b>£650</b> (£1,750)	<b>£450</b> (£1,200)	<b>£450</b> (£1,200)	<b>£1,500</b> (£3,500)	<b>£15</b> (£25)	<b>£25</b> (£50)
Betting premises (track) licence	1	<b>£250</b> (£300)	<b>£500</b> (£1,250)	<b>£1,000</b> (£2,500)	<b>£400</b> (£950)	<b>£400</b> (£1,000)	<b>£500</b> (£1,250)	<b>£400</b> (£950)	<b>£400</b> (£950)	<b>£1,000</b> (£2,500)	<b>£15</b> (£25)	<b>£25</b> (£50)
Betting premises (other) licence	57	<b>£250</b> (£300)	<b>£500</b> (£1,500)	<b>£1,000</b> (£3,000)	<b>£400</b> (£1,200)	<b>£250</b> (£600)	<b>£500</b> (£1,500)	<b>£400</b> (£1,200)	<b>£400</b> (£1,200)	<b>£1,000</b> (£3,000)	<b>£15</b> (£25)	<b>£25</b> (£50)
Family entertainment centre premises licence	17	<b>£250</b> (£300)	<b>£400</b> (£1,000)	<b>£600</b> (£2,000)	<b>£350</b> (£950)	<b>£300</b> (£750)	<b>£400</b> (£1,000)	<b>£350</b> (£950)	<b>£350</b> (£950)	<b>£600</b> (£2,000)	<b>£15</b> (£25)	<b>£25</b> (£50)
Adult gaming centre premises licence	0	<b>£250</b> (£300)	<b>£400</b> (£1,000)	<b>£750</b> (£2,000)	<b>£450</b> (£1,200)	<b>£400</b> (£1,000)	<b>£400</b> (£1,000)	<b>£450</b> (£1,200)	<b>£450</b> (£1,200)	<b>£750</b> (£2,000)	<b>£15</b> (£25)	<b>£25</b> (£50)

*\*Fees in brackets are maximum permitted by Regulations*



**Projected Income under the Gambling Act 2005 for 2007/08**

Premises currently licensed in Sandwell

- 2 Casinos
- 5 Bingo Premises
- 57 Betting Offices
- 17 Amusement Arcades/Family Entertainment Centres
- 1 Betting Track

82 premises in total

Using the proposed annual fees from Appendix A

**Annual 1<sup>st</sup> fees:**

Casinos :	2 x £1000 =	£2000
Bingo Premises :	5 x £400 =	£2000
Betting premises :	57 x £250 =	£14250
Betting Tracks :	1 x £400 =	£400
Adult Gaming/ Family Entertainment centres	17 x £250 =	£4250
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	<b>Total</b>	<b>£22900</b>

**Fast Track Applications**

As the majority will opt for this route, using the proposed fee from Appendix A of £250, income = £250 x 82 = **£20500**

Therefore, projected income for 2007/08

Estimated Income from Annual fees	=	£22900
Estimated Income from Fast track fees	=	£20500
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**TOTAL ESTIMATED INCOME FROM PREMISES LICENCE = £43400**