

## GENERAL PURPOSES & LICENSING COMMITTEE – 21 MAY 2007

### GAMBLING ACT 2005 - PREMISES LICENCE FEES

#### 1. INTRODUCTION

- 1.1 The purpose of this report is to set fee levels under the Gambling Act 2005.
- 1.2 The content of this report is based on published advice, recommendations and guidance from the Local Authorities Coordinators of Regulatory Services (LACORS) and the Department of Culture Media and Sport (DCMS)
- 1.3 The Gambling Act 2005 gives the Secretary of State power to make regulations prescribing the fees payable to the licensing authority. The Government has now set **maximum** premises licence fee levels and also permit fee levels. These are shown at Appendix 1.
- 1.4 In relation to premises licence fees, Councils may set their fees at any levels up to the maximums prescribed (or beyond for 'excellent' rated authorities). However, the Gambling Act 2005 specifically states that local authorities shall *"aim to ensure that the income from fees... as nearly as possible equates to the costs of providing the service to which the fees relates"*. **Therefore all licensing authorities must only set their fees upon a cost recovery basis for premises licences. Fees for permits however are prescribed by Government and cannot be altered.**
- 1.5 Local authorities must now establish and publish their fees to allow applications under the Gambling Act 2005 to proceed from 21<sup>st</sup> May 2007.

#### 2. FEE SETTING CONSIDERATIONS

- 2.1 Fees must be determined in relation to the different classes of premises as set-out in the fees regulations and must be set for all types of premises licences (regardless of whether or not the authority has such premises in its area – exception is the new casinos) as follows:

- Casinos
- Bingo
- Betting (off-course)
- Tracks (on-course betting)
- Adult Gaming Centres
- Family Entertainment Centres

- 2.2 NFDC currently have the following premises types and numbers within its area:

- Casinos - 0
- Bingo - 0
- Betting (off-course) - 21
- Tracks (on-course betting) - 0
- Adult Gaming Centres - 1
- Family Entertainment Centres - 4

2.3 In relation to premises licences, fees must be set for the following activities connected to those licences:

- Application fee for fast-track applications (transitional applications only)
- Application fee for non fast-track applications (transitional applications only)
- Application for (new) premises licence
- Application to vary a premises licence
- Application to transfer the licence (Sections 188 and 189)
- Application for re-instatement of the premises licence (Sections 195 & 196)
- Application for a provisional statement
- Application for a premises licence for a premises which already has a provisional statement
- Fee to accompany a request for a copy of the premises licence (Sections 190)
- Fee to accompany a notification of change of circumstances (only relevant change is that of address - Section 186)

2.4 Annual fees must also be set.

### **3. WHAT COSTS MUST BE EXCLUDED IN FEE SETTING CONSIDERATIONS?**

3.1 Fees cannot be based upon premises size, rateable value etc.

3.2 Start-up costs must not be included in the calculations for setting premises licence fees. The Secretary of State wrote to all Chief Executives of local authorities to inform them that provision had been made in the Revenue Support Grant, as part of the Environmental, Protective and Cultural Services settlement, for the start-up costs related to the Gambling Act 2005 to provide for:

- Training of existing licensing officers, councillors and administrative staff
- Staff/recruitment costs (where additional staff are required to fulfill gambling premises licence responsibilities.)
- Additional software/hardware requirements
- Transfer of records from Magistrates to authorities
- Producing and consulting on the three year licensing policy statement

3.3 There are a number of local authority responsible authorities in the Act i.e. Environmental Health, Planning, Children's Services / Safeguarding Boards, etc. Currently DCMS has stated that the costs of these are not to be borne by the licence fees.

#### **4. WHAT COSTS SHOULD BE INCLUDED IN FEE SETTING CONSIDERATIONS?**

4.1 The following activities can be assessed for fee setting purposes:

- Dealing with applications
- Dealing with representations
- Mediation
- Holding committee hearings
- Involvement in appeals
- Carrying out reviews
- Inspection - (where local authorities plan to carry-out initial inspections of premises upon application, this cost can be allocated to the application fee. Where the inspections are planned as one-off initial inspections for the purposes of risk rating the premises, for example, it would be appropriate to include the cost in the application fees. However, if the inspections are to be carried-out every year then the costs should be allocated to the annual fees.)
- Compliance
- Enforcement
- Information exchange with the Gambling Commission
- Maintaining registers
- Future reviews of 'Statement of Principles'
- Local publicity and answering general queries regarding the licensing regime from the public and local business

4.2 Costs for compliance and enforcement work related to illegal gambling (i.e. where no licence or permit authorises the gambling activity) should be included in the costs to licensing authorities, and thus covered by the fees. Illegal gambling covers situations where gambling is taking place at a premises which has no authorisation or at a premises which has authorisation for some gambling activity but not that being offered. However, illegal gambling compliance and enforcement activity may be more prevalent as regards those activities which would be authorised by permits such as illegal poker in pubs / cafes or gaming machines in premises where no machines are permitted. Thus, those costs should be covered by the permit fees (which cannot be amended) and not the premises licence fees.

4.3 All costs of providing the service must be included in the fees so that there is no subsidisation by general tax payers. This will therefore include all direct and indirect costs, including a full proportional share of overhead costs, insurance, depreciation and cost of capital charge. For example, overheads include: accommodation, telephone, furnishing, IT, printing, stationery, postage. Staff costs include: salary, pension, NI contributions, travel & subsistence. There will also be legal and central support services costs such as personnel, press and publications, accountants etc.

#### **5. CHALLENGES TO LOCAL AUTHORITY FEES**

5.1 If parts of industry believe the authority's fees are at a level which is greater than the costs of the statutory functions then it would be open to them to undertake judicial review proceedings. Should this arise, the authority will need to evidence how it arrived at the fee levels to demonstrate that they

have been calculated on a cost recovery basis only. It is a real possibility that the industry will challenge some authority's fee levels.

- 5.2 DCMS does not expect that many councils will need to set fees at or near the maximum. It has undertaken to collate and publish the fees councils set this year, and once done may want to talk to a representative sample of licensing authorities to understand the basis on which councils have calculated fees this year.

## **6. SETTING FEES AND TRACKING COSTS**

- 6.1 LACORS strongly advise that authorities accurately calculate their fees and do not just set their fees at the maximum levels published by the Secretary of State, unless these maximums are felt to reflect costs.
- 6.2 It is recognised that for the first fees setting exercise, costs will be estimates only, based upon the information available at the time. Actual costs may therefore vary to some extent. A number of documents have been consulted to assist officers with understanding the work involved as follows:
- *Transitional Arrangements guidance* from The Department of Culture, Media & Sport (DCMS) published in December 2006 – provides explanations as to 'fast-track' and 'non-fast track applications.
  - *Transitional Arrangement Regulations – SI 2006 / 3272.*
  - *DCMS Fees consultation* dated 14<sup>th</sup> November 2006 – provides explanations as to what is broadly covered by the fees.
  - *Gambling Commission Information Exchange* advice published in February 2007 – explains the requirements of the Gambling Commission.
  - *Gambling Commission guidance on Enforcement & Compliance* consultation document published in November 2006 – provides an indication of the types of compliance and enforcement action officers will be responsible for.
  - *LACORS draft compliance & enforcement responsibilities* document – provides a list of the conditions / requirements relevant to premises licences, with assumptions as to which body is responsible for ensuring compliance with which provisions.
- 6.3 LACORS have produced a toolkit to assist local authorities calculate appropriate fees for premises licensing in an informed manner to assist them both at the start of the new regime and for each review. This process has been endorsed by DCMS.
- 6.4 NFDC officers have used the LACORS toolkit to calculate fees for the first year. It should be noted that the application fees only include the cost of processing applications i.e. administration processes plus appeals etc. For initial applications the time for licensing staff, legal staff and democratic services has been costed-out by NFDC finance department using cost rates that take account of all overheads. Results of the calculated fees are shown at Appendix 2
- 6.5 LACORS strongly advise that authorities closely track their costs. Future activity associated with applications including administration, hearings,

compliance work, enforcement work, reviews etc. will be tracked utilising the LACORS toolkit. This will assist in establishing the accuracy of the first year fee calculations and to set future year's fees.

## **7. CRIME AND DISORDER IMPLICATIONS**

- 7.1 There are no crime and disorder issues arising from the introduction of this policy

## **8. ENVIRONMENTAL IMPLICATIONS**

- 8.1 There are no environmental issues arising from the introduction of this policy

## **9. FINANCIAL IMPLICATIONS**

- 9.1 The constraints of cost recovery only and the implications of incorrect fee setting have been detailed in this report. First year fee setting can only be an estimation at this stage. LACORS is exploring what action it is appropriate for local authorities to take should they discover that they have either over or under-charged at the fee levels set.

## **10. EQUALITY AND DIVERSITY IMPLICATIONS**

- 10.1 The Council's Statement of Gambling Principles addresses any impact the functions of the Gambling Act might have, on the Council's residents, customers and employees by reference to their disability, age, gender, religion and beliefs, sexuality and race.

## **11. RECOMMENDATION**

- 11.1 That the General Purposes & Licensing Committee set the fees charged by New Forest District Council under the Gambling Act 2005 as those shown at Appendix 2 to this report.

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### **Previous documentation;**

**GP&L Committee Meetings**  
17.11.06 Report D  
12.1.07 Report B  
16.3.07 Report A

**Gambling Act 2005 – Fees published to date**

**Premises Licence Fees** – These fees are maximums only and local authorities must set their own fees on the basis of cost-recovery.

Premises Type	Transitional Fast-Track Application £	Transitional Non-Fast Track Application £	New Application £	Annual Fee £
Existing Casinos	300	2000	n/a	3000
New Small Casino	n/a	n/a	8000	5000
New Large Casino	n/a	n/a	10000	10000
Regional Casino	n/a	n/a	15000	15000
Bingo Club	300	1750	3500	1000
Betting Premises (excluding Tracks)	300	1500	3000	600
Tracks	300	1250	2500	1000
Family Entertainment Centres	300	1000	2000	750
Adult Gaming Centre	300	1000	2000	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 £
Existing Casinos	2000	1350	1350	n/a	n/a	25	50
New Small Casino	4000	1800	1800	8000	3000	25	50
New large Casino	5000	2150	2150	10000	5000	25	50
Regional Casino	7500	6500	6500	15000	8000	25	50
Bingo Club	1750	1200	1200	3500	1200	25	50
Betting Premises (excluding Tracks)	1500	1200	1200	3000	1200	25	50
Tracks	1250	950	950	2500	950	25	50
Family Entertainment Centres	1000	950	950	2000	950	25	50
Adult Gaming Centres	1000	1200	1200	2000	1200	25	50

**Gambling Act 2005 – Fees published to date**

**Permits** – These fees are set by the Secretary of State and the licensing authority has no discretion to change them.

Fee Type Permit Type	Application fee	Annual fee	Renewal fee	Transitional Application Fee
FEC Gaming Machine	300	N/A	300	100
Prize Gaming	300	N/A	300	100
Alcohol Licences Premises – Notification of 2 or less machines	Draft = £50	Await draft regulations	Await draft regulations	Await draft regulations
Alcohol Licences Premises – More than 2 machines	Draft = 150	Draft = 50	N/A	Draft = 100
Club Gaming Permit	Draft = 200	Draft = 50	Draft = 200	Draft = 100
Club Gaming Machine Permit	Draft = 200	Draft = 50	Draft = 200	Draft = 100
Club Fast-track for Gaming Permit or Gaming Machine Permit	Draft = 100	Draft = 50	Draft = 200	N/A
Small Society Lottery Registration				

**Permit - 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
Alcohol Licences Premises – Notification of 2 or less machines	Await draft regulations	Await draft regulations	Await draft regulations	Await draft regulations
Alcohol Licences Premises – More than 2 machines	Draft = 25	Draft = 15	Draft = 100	Draft = 25
Club Gaming Permit	N/A	Draft = 15	Draft = 100	N/A
Club Gaming Machine Permit	N/A	Draft = 15	Draft = 100	N/A
Small Society Lottery Registration				

**Gambling Act 2005  
New Forest District Council Fees**

Premises Type	Transitional Fast-Track Application £	Transitional Non-Fast Track Application £	New Application £	Annual Fee £
Existing Casinos	n/a	n/a	n/a	n/a
New Small Casino	n/a	n/a	tba	tba
New Large Casino	n/a	n/a	tba	tba
Regional Casino	n/a	n/a	tba	tba
Bingo Club	150	875	1750	500
Betting Premises (excluding Tracks)	150	750	1500	300
Tracks	150	625	1250	500
Family Entertainment Centres	120	400	800	300
Adult Gaming Centre	120	400	800	400

	Application to Vary £	Application to Transfer £	Application for Re-Instatement £	Application for Provisional Statement £	Licence Application (provisional Statement holders) £	Copy Licence £	Notification of Change £
Existing Casinos	n/a	n/a	n/a	n/a	n/a	n/a	n/a
New Small Casino	tba	tba	tba	tba	tba	25	50
New large Casino	tba	tba	tba	tba	tba	25	50
Regional Casino	tba	tba	tba	tba	tba	25	50
Bingo Club	875	600	1200	3500	600	25	50
Betting Premises (excluding Tracks)	750	600	600	1500	600	25	50
Tracks	625	475	475	1250	475	25	50
Family Entertainment Centres	400	380	380	800	380	25	50
Adult Gaming Centres	400	480	480	800	480	25	50