



**Notice of meeting of
Gambling & Licensing Acts Committee**

To: Councillors Cregan (Chair), D'Agorne, Funnell,
Sue Galloway, Hyman, Merrett, Moore, Horton, Wiseman
(Vice-Chair), Watt, B Watson, Taylor, Sunderland,
Runciman and Reid

Date: Friday, 8 June 2007

Time: 3.00 pm

Venue: The Guildhall

AGENDA

1. Declarations of Interest

At this point, Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda

2. Minutes (Pages 1 - 4)

To approve and sign the minutes of the Licensing Act 2003 Committee meeting held on 2nd February 2007.

3. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of this agenda. The deadline for registering is Thursday 7th June 2007 at 5pm.

4. Establishment of Terms of Reference and Procedure (Pages 5 - 22)

This report asks Members to approve the terms of reference for the Gambling and Licensing Acts Committee and the procedure for the Gambling Act 2005 Sub-Committees.

- 5. Gambling Act 2005 - Fees** (Pages 23 - 38)
This report asks members to recommend to full council a scale of fees to be applied to the Gambling Act 2005 which becomes fully operational on 1st September 2007.
- 6. Any other business which the Chair considers urgent under the Local Government Act 1972**

Democracy Officer:

Name: Tracy Wallis

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For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting Tracy Wallis

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

City of York Council

Minutes

MEETING	LICENSING ACT 2003 COMMITTEE
DATE	2 FEBRUARY 2007
PRESENT	COUNCILLORS NIMMO (CHAIR), BARTLETT (VICE-CHAIR), D'AGORNE, HALL, HORTON, MOORE, REID, B WATSON, I WAUDBY AND WILDE
APOLOGIES	COUNCILLORS SUE GALLOWAY, HYMAN, KING, RUNCIMAN AND EVANS
IN ATTENDANCE	CLLR MERRETT

13. DECLARATIONS OF INTEREST

At this point, Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda. None were declared.

14. MINUTES

RESLOVED: That the minutes of the meeting held on 3rd November 2006 be approved and signed as a correct record.

15. PUBLIC PARTICIPATION

It was reported that there were no registrations to speak under the Council's Public Participation Scheme.

Cllr Merrett spoke on behalf of residents in Micklegate ward on Agenda Items 4 (Licensing Act 2003 - One Year On) and 5 (Licensing Issues in the Violent Crime Reduction Act 2006).

Cllr Merrett circulated an e-mail at the meeting relating to a complaint from a resident in his ward. The resident had experienced several outbreaks of anti-social behaviour and various public nuisance problems allegedly from persons using the four fast food takeaways on Blossom Street.

In relation to Agenda Item 4 Cllr Merrett said that noise and disturbance issues were a major concern and, in terms of feedback from his ward residents since the new Act was introduced, there had been an extension of noise problems further into the early hours that were detrimental to people's lives. Cllr Merrett said that the Council were not looking after residents properly in terms of noise and the policy regarding noise related incidents needed to be tightened.

He also said that queuing outside premises, especially within the Cumulative Impact Zone (CIZ), was something that needed to be addressed by the Committee.

In relation to Agenda Item 5 Cllr Merrett said that the statistics needed to be looked at carefully and should not be taken at face value as there had been a change in policing at the time they were produced.

16. LICENSING ACT 2003, ONE YEAR ON

Members considered a report that analysed the first year's implementation of the Licensing Act 2003. Members were asked to consider if an interim review of the Licensing Policy was necessary to help promote the licensing objectives set out in the Act.

Officers stated that York had a good spread of opening hours and staggered closing times compared to other parts of the country. There had been a significant reduction in drink related violent disorder and criminal damage in the city which had not been reflected nationally. There had also been a reduction in litter within the Cumulative Impact Zone (CIZ) due to the litter picking conditions attached to premises licences.

Officers said that, unfortunately, there had been a significant increase in noise related incidents since the introduction of the Act. A questionnaire had been circulated to residents within the CIZ and other city centre streets asking for their feedback on the impact of the new licensing legislation.

Members raised concerns that there was a lack of awareness of the CIZ amongst members of the public and Officers admitted that there was a perception problem.

Members expressed views regarding how many people were being written to when a licensing application was submitted. The Officer said that they had cut back on the number of people they wrote to due to cost and the fact that it was not in the spirit of the Act. To combat this the Licensing Department had tried to go for 'high publicity'.

Members raised concerns that noise and disturbance issues were being treated too lightly and that residents' representations about these matters should be taken more seriously. Members queried whether the public were aware of their right to apply for a review of a premises licence and the Officer confirmed that when anyone made a complaint against a licensed premises then they were told of their right to apply for a review.

Members expressed concern about their lack of powers to deal with general noise in the street or noise that was not specifically related to a certain premises. The Licensing Manager volunteered to write to the police regarding issues of general noise and express the concerns that Members had raised during discussion.

Members also asked the Licensing Manager to provide them with an update on any applications that had gone to appeal and the outcome of those appeals.

Members agreed that the policy was tight enough at the moment although more emphasis needed to be placed on noise and disturbance issues.

RESOLVED:

- (i) That the Committee would make no proposals for change to the policy at this stage.

REASON: in all objectives but the prevention of public nuisance the policy is achieving its aims. There is no practical policy change which at this stage would make any impact on the objective.

- (ii) That the Committee have regard to the issues raised in the consultation about noise and antisocial behaviour when considering future licensing applications and that noise and public nuisance are dealt with as and when possible.

REASON: that conditions can be applied to individual applications to limit any nuisance that maybe caused.

- (iii) Refer this report to all Planning Committees for their information.

REASON: in accordance with the statutory guidance to the Act paragraph 3.51.

17. LICENSING ISSUES IN THE VIOLENT CRIME REDUCTION ACT 2006

Members considered a report that informed the Licensing Committee of the relevant licensing issues contained in the Violent Crime Reduction Act 2006. The notes were prepared by the Licensing Manager in order to brief the Committee and give an overview in relation to only the alcohol related issues contained in the Act.

Officers stated that this Act would come in to force in October 2007.

Members sought clarification of the details in Paragraph 15 of the report stating that 'Licensing Authorities notified by the police are required to hold an emergency meeting within 48 hours to consider temporary variations to the Premise Licence.' Members queried whether this should be 2 working days rather than 48 hours. The Officer said he would seek to clarify this with the Department for Culture, Media and Sport (DCMS).

RESOLVED:

- (i) That Members note the contents of the Violent Crime Reduction Act 2006 in relation to alcohol related issues.

REASON: To keep Members updated on new legislation.

- (ii) That the Officer clarify with DCMS the query raised in relation to Paragraph 15 of the report regarding the timescales for organising emergency meetings.

REASON: To clarify the requirements of the Act to Members.

G NIMMO
Chair

The meeting started at 2.00 pm and finished at 3.03 pm.



Gambling and Licensing Acts Committee

8 June 2007

Report of the Head of Civic, Democratic and Legal Services

Establishment of the Terms of Reference for the Gambling and Licensing Acts Committee and the Procedure for Sub-Committees

Summary

1. This report asks Members to approve the terms of reference for the Gambling and Licensing Acts Committee and the procedure for the Gambling Act 2005 Sub-Committees.

Background

2. The Gambling Act 2005 received Royal Assent on 7th April 2005 and will come into full effect from September 2007. Certain functions under the Gambling Act 2005 are delegated to the licensing committee and sub-committees that had been established under section 6 of the Licensing Act 2003, namely the Licensing Act 2003 Committee. The new title of Gambling and Licensing Acts Committee and the new delegation scheme for this committee were approved at the Annual Council meeting on 24 May 2007 to reflect the new role the committee will undertake under the Gambling Act 2005. The revised delegation scheme for this committee is attached at Annex A.

Under the delegation scheme, the Gambling and Licensing Acts Committee have a duty to agree the terms of reference, which sets out the committee's statutory duties under the Gambling Act 2005 and delegated functions to sub-committees and officers, together with the procedure which will govern the operation of the sub-committees during Gambling Act 2005 Hearings.

Consultation

3. The Head of Licensing and Regulation has been consulted on the delegation scheme, terms of reference and procedures. Any comments made have been incorporated into the versions attached.

Options

4. Members have two options to consider:

Option A – to approve the terms of reference for this committee attached at Annex B and the procedure for the sub-committees attached at Annex C

Option B – to make amendments to the recommended terms of reference for this committee and the procedures for the sub-committees

Analysis

5. Failure to approve the terms of reference for the Gambling and Licensing Acts Committee and the procedures for the sub-committees will mean that the Gambling Act 2005 cannot be fully implemented by the Council as a licensing authority.

Corporate Priorities

6. The Gambling Act has 3 objectives:
 - a. preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime;
 - b. ensuring that gambling is conducted in a fair and open way; and
 - c. protecting children and other vulnerable persons from being harmed or exploited by gambling.

These contribute to the Council's priority of reducing the actual and perceived impact of violent, aggressive, and nuisance behaviour on people in York. Such behaviour can be associated with poorly regulated gambling activities.

Implications

7.
 - **Financial** - None
 - **Human Resources (HR)** - None
 - **Equalities** - None
 - **Legal** - The legal requirements associated with implementing the Gambling Act 2005 cannot be fully met until the Gambling and Licensing Acts Committee and sub-committees have been given the appropriate powers to act under this new legislation.
 - **Crime and Disorder** - None
 - **Information Technology (IT)** - None
 - **Property** - None
 - **Other** - None

Risk Management

8. There are no known risks associated with this report.

Recommendations

9. Members are asked to:
- i. Approve the terms of reference attached at Annex B which lays out the committee's statutory duties under the Gambling Act 2005 and the schedule of delegated functions to officers and sub-committees;
 - ii. Approve the procedure for the sub-committees attached at Annex C

Reasons: To ensure the effective implementation of the Gambling Act 2005.

Contact Details

Author:

Dawn Steel
Democratic Services Manager
01904 551030

Chief Officer Responsible for the report:

Suzan Hemingway
Head of Civic, Democratic and Legal Services
01904 551004

Report Approved



Date 31 May 2007

Specialist Implications Officer(s)

Legal Implications

Suzan Hemingway, Head of Civic, Democratic and Legal Services.
TEL: 551044

Wards Affected:

All

For further information please contact the author of the report

Background Papers: Gambling Act 2005 (Chapter 19)

Annexes

Annex A – Delegation scheme for Gambling and Licensing Acts Committee

Annex B – Terms of Reference for Gambling and Licensing Acts Committee

Annex C – Procedures for the Gambling Act 2005 Sub-Committees

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Gambling and Licensing Acts Committee

The functions of the Gambling and Licensing Acts Committee are:

Delegated authority	Conditions
<p>Advisory – Gambling Act 2005</p> <p>To make recommendations via the Executive to the Council as a “Licensing Authority” on a Statement of Licensing Policy and any subsequent review thereof.</p> <p>To refer to the Council any matter where the Gambling Act 2005 Committee is unable to discharge a function delegated to it because of the number of Members unable to take part in the consideration or discussion of any matter or vote on any question in respect of it.</p> <p>To make recommendations to the Council as a “Licensing Authority” on a policy not to permit casinos.</p>	
<p>Advisory – Licensing Act 2003</p> <p>To make recommendations via the Executive to the Council as a “Licensing Authority” on a Statement of Licensing Policy and any subsequent review thereof.</p> <p>To refer to the Council any matter where the Licensing Act 2003 Committee is unable to discharge a function delegated to it because of the number of Members unable to take part in the consideration or discussion of any matter or vote on any question in respect of it.</p>	
<p>Delegated Powers – Gambling Act 2005</p> <p>To exercise all the functions of the “Licensing authority” under the Gambling Act 2005 except those specifically reserved to Full Council.</p> <p>To set the fees in relation to premises licences from within fee bands as prescribed by the Government.</p> <p>To establish and determine the terms of reference, procedures and delegated powers of the Gambling Act 2005 Sub-Committees as required by the Gambling Act 2005.</p>	

To determine which functions under the Gambling Act 2005 should be delegated to officers.

To receive annually reports on decisions made by officers under delegated powers with regard to applications under the Gambling Act 2005 so that the Committee can maintain an overview of the general situation.

Delegated Powers – Licensing Act 2003

To exercise all the functions of the “Licensing authority” under the Licensing Act 2003 except those specifically reserved to Full Council.

To establish and determine the terms of reference, procedures and delegated powers of the Licensing Act 2003 Sub-Committees as required by the Licensing Act 2003.

To determine which functions under the Licensing Act 2003 should be delegated to officers.

To receive annually reports on decisions made by officers under delegated powers with regard to applications under the Licensing Act 2003 so that the Committee can maintain an overview of the general situation.

Gambling Act 2005 Sub-Committees

The functions of the Gambling Act 2005 Sub-Committees are to determine applications under the Gambling Act 2005 as set out below:

Delegated authority	Conditions
Application for premises licences	If a relevant representation made
Application for a variation to a premises licence	If a relevant representation made
Application for a transfer of a premises licence	If a representation received from the Gambling Commission
Application for a licence to be reinstated	If a relevant representation made
Application for a provisional statement	If a relevant representation made
Review of a premises licence	All cases
Application for club gaming/club machine permits	If a relevant objection made
Cancellation of club gaming/club machine permits	All cases
Consideration of a temporary use notice	If a relevant objection made
Decision to give a counter notice to a temporary use notice	All cases

Licensing Act 2003 Sub-Committees

The functions of the Licensing Act 2003 Sub-Committees are to determine applications under the Licensing Act 2003 as set out below:

Delegated authority	Conditions
Application for personal licence	If a police objection
Application for personal licence with unspent conviction	All cases
Application for premises licence/club premises certificate	If a relevant representation made
Application for provisional statement	If a relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made
Application to vary designated premises supervisor	If a police objection
Application for transfer of premises licence	If a police objection
Application for interim authorities	If a police objection
Application to review premises licence/club premises certificate	All cases
Decision to object where the Council is a consultee and not the relevant authority considering the application.	All cases
Determination of a police objection to a temporary event notice.	All cases

**Terms of Reference for the
Gambling and Licensing Acts Committee
under the Gambling Act 2005**

Part I

Recommendations to Council

Functions

1. Duty to receive the outcome of consultations required to be carried out under Section 349 of the Gambling Act 2005 and to recommend to Council any revisions of the Statement of Licensing Policy published under the Gambling Act 2005 as a result of such consultation.
2. Duty to review the Statement of Licensing Policy in each of the three year periods as defined in Section 349 of the Gambling Act 2005 and to make recommendations to Council in relation to the revision of the Policy.
3. Duty to make recommendations to Council in relation to a policy not to permit casinos.
4. Duty to make recommendations to Council on the delegated powers of the Gambling Act 2005 sub-committees.

Part II

Functions to be exercised by the Committee

5. All the Council's functions as Licensing Authority under the Gambling Act 2005 whilst having regard to the Council's Statement of Licensing Policy published under Section 349 of the Gambling Act 2005.
6. Duty to agree a schedule of delegated functions to sub-committees or officers subject to the restrictions imposed under Section 154 of the Act and Regulations made there under.
7. Duty to agree the terms of reference and procedures of the Gambling Act 2005 Sub-Committees as required by the Gambling Act 2005.
8. Duty to have regard to the three licensing objectives as defined in Section 1 of the Act
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is being conducted in a fair and open way

- Protecting children and other vulnerable persons from being harmed or exploited by gambling

whilst carrying out its functions and those delegated to the Gambling Act Sub-Committees.

9. Duty to receive annual reports on determinations made by the Gambling Act sub-committees and decisions made by officers.
10. Duty to set the fees in relation to premises licences from within fee bands as prescribed by the Government.

Note: if not quorate, the Committee is required, by virtue of Section 154(3)(a) of the Gambling Act 2005, to refer any of the above matters which it is unable to deal with to the full Council for determination.

Part III

Delegations to Officers

Functions

11. To determine applications under the Gambling Act 2005 as detailed in the Statement of Licensing Policy, except the functions detailed in Section 154(4), Schedule 12 paragraph 28(2), and Sections 222 and 224 of the Act.
12. To deal with any appeal arising out of the licensing process.
13. To determine if representations made from an interested party in respect to an application for a premises licence are frivolous or vexatious or in respect to an application to review a licence are frivolous, vexatious or repetitious.

Delegations to the Gambling Act 2005 Sub-Committees

Functions to be exercised by the Sub-Committees

1. To determine any application made under the Gambling Act 2005 that cannot be discharged by an officer of the licensing authority as detailed in Section 154(4), Schedule 12 paragraph 28(2), and Sections 222 and 224 of the Act.

Schedule of Delegated Functions

Matter to be Dealt With	Full Council	Full Committee	Sub-Committee	Officers
Final approval of three year licensing policy	All cases			
Policy not to permit casinos	All cases			
Fee setting for premises licences		All cases		
Application for premises licences			Where representations have been received and not withdrawn	Where no representations have been received /representations have been withdrawn
Application for a variation to a premises licence			Where representations have been received and not withdrawn	Where no representations have been received /representations have been withdrawn
Application for a transfer of a licence			Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations have been received /representations have been withdrawn
Review of a premises licence			All cases	
Application for club gaming/club machine permits			Where objections have been made and not withdrawn	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits			All cases	
Decision to give a counter notice to a temporary use notice			All cases	
Consideration of temporary use notice			Where objections have been made and not withdrawn	Where no objections made/objections have been withdrawn
Applications for other permits				All cases
Cancellation of licensed premises gaming machine permits				All cases
Determination whether representations to a licence application or in relation to a review are vexatious, frivolous or whether they influence the authorities determination of the application.				By Head of Licensing with relevant Assistant Director
Application to allow more than 2 gaming machines on alcohol licensed premises				By Head of Licensing with relevant Assistant Director

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GAMBLING ACT 2005 SUB – COMMITTEES PROCEDURE FOR HEARINGS

Introduction

The procedure outlined below will be followed at all Gambling Act Hearings.

As Gambling Act Hearings are quasi-judicial the Sub-Committee will, in effect, act like a Court and the rules of natural justice will apply. The Sub-Committee will be guided by legal principles in determining whether evidence is both relevant and fairly admitted. Committee Members have a duty to view all evidence presented before them impartially. Members of the Gambling Act Sub-Committee have all received relevant training and are used to making decisions of this type. No matter how strong local opinion may be, Committee Members can only make decisions based on relevant gambling issues as set out before the Sub-Committee in determining applications.

The hearing will be in public session. However, the Sub-Committee may direct that all or part of a hearing must be in private if it is satisfied that it is necessary in all the circumstances of the case, having regard to

- (a) any unfairness to a party that is likely to result from a hearing in public; and
- (b) the need to protect as far as possible, the commercial or other legitimate interests of a party. However, the decision will be made in private.

The purpose of the hearing is

- To enable those with a right to appear to advance their point of view and to test the case of their opponents
- To assist the Sub-Committee to gather evidence and understand the relevant issues

In view of the requirement to hold hearings as soon as reasonably practicable, the Licensing Authority will generally be unable to enter into discussions to identify dates convenient to all parties concerned. In exceptional circumstances, the Licensing Authority will consider applications to adjourn hearings to a later date.

Representations at Gambling Hearings

The Applicant and Representors who have made written submissions will be allowed to speak at the Sub-Committee. Councillors, including parish councillors, and MPs may also make representations in relation to premises licences (but not permits) without being asked by a resident to specifically do so, as long as they represent the

ward or parish council likely to be affected. At any hearing of an application, the Applicant and any Representors shall attend in person wherever possible. Any party to a hearing may be assisted or represented by any person, legally or otherwise.

All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee. A time limit has been set because of the pressures on the Sub-Committees to hear so many applications in a short period of time. **Each party will have 15 minutes to address the Sub-Committee, give any further information, and call any witnesses.** If any party considers this time to be insufficient then a request in writing may be made to the Democracy Officer for an extension of time at least 2 working days before the hearing. However, this will not be automatically granted and will be at the discretion of the Sub-Committee.

The Sub-Committee may take into account any documentary evidence or other information in support of the application, representations or notice, either before the hearing or, at the hearing with the consent of all other parties attending the hearing.

If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written objection and hear and consider any evidence and argument in relation to it put forward by the Applicant. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by the Applicant and Members.

The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives. Duplication should be avoided. Comments must be confined to those points already made, although the parties may extend or expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be repeated or made at length. The Applicant and Representors cannot raise substantial new information at a hearing which has not been seen previously by the other parties.

A Representor **may not** introduce any new ground or objection not referred to in the written submission unless the Sub-Committee considers there are exceptional circumstances for doing so and the Representor is able to justify why the ground or objection should be raised. The Applicant may make representations to the Sub-Committee as to why any such request to introduce a new ground should or should not be granted. In considering whether to grant a request by a Representor to introduce a new ground, the Sub-Committee will consider why the new evidence has not been produced earlier and whether the admission of such a ground would necessitate the grant of an adjournment and will consider any unfairness to the Applicant or other Representors by reason of the extra cost or delay thereby caused.

Any person behaving in a disruptive manner may be asked to leave the hearing. If this does occur, that person may, before the end of the hearing, submit in writing any information which they would have been entitled to give orally. This information will be taken into account when reaching a determination of the application or review.

Procedure prior to the Hearing

The Members sitting on the Sub-Committee will meet prior to the hearing to note the matters that are to be presented. They will only be accompanied by the Democracy Officer and Legal Advisor (*if present*). Attention will only be drawn to the nature of the application and the premises or person to which it relates. The actual application will not be discussed.

At any hearing of an application, the Licensing Officer, the Applicant and any Representors or representatives will report to reception and be asked to wait in reception until the democracy officer calls them through to the committee room.

Procedure at the Hearing

1. Members of the Sub-Committee will appoint a chair.
2. The Chair introduces the Committee Members and officers [*Democracy Officer, Legal Advisor to the committee (if present) and the Licensing Officer*], welcomes the Applicant and Representors (or their representatives), and establishes the identity of all who will be taking part.
3. The Chair will explain to the parties the procedure that will be followed at the hearing.
4. The Chair will proceed with the order of business on the agenda.
5. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application.
6. The Licensing Officer outlines the application, confirms the application details, introduces the report and gives an update on any recent changes.
7. The Chair will invite Committee Members, the Applicant and Representors (or representatives) to ask the Licensing Officer questions to clarify any points raised in the report.
8. The Chair will ask the Applicant (or their representative) to present their case.
9. The Applicant (or their representative) will present their case and may call any witnesses to support their case [*maximum 15 minutes*].
10. The Chair will invite the Representors (or their representative) in the following order to ask questions of the Applicant (or their representative) and/or witnesses [*maximum 5 minutes each party*]
 - (i) Responsible Authorities
 - (ii) Ward/Parish Councillors or MPs
 - (iii) Interested Parties
11. The Chair will invite the Committee Members to ask questions of the Applicant (or their representative) and/or witnesses.

12. The Chair will invite the Representors (or their representative) in the following order to state the nature of their interest in the matter, present their case and call any witnesses to support their case *[maximum 15 minutes each party]*
 - (i) Responsible Authorities
 - (ii) Ward/Parish Councillors or MPs
 - (iii) Interested Parties
13. The Chair will invite the Applicant to ask questions of each Representor (or their representative) and/or their witnesses after each presentation *[maximum 5 minutes per Representor]*.
14. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.
15. The Chair will invite the Representors (or their representative) in the following order to summarise their case *[maximum 5 minutes each party]*
 - (i) Responsible Authorities
 - (ii) Ward/Parish Councillors or MPs
 - (iii) Interested Parties
16. The Chair will invite the Applicant (or their representative) to summarise their case *[maximum 5 minutes]*.
17. The Chair will provide the Sub-Committee with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor (*if present*) on law and jurisdiction.
18. When all the evidence has been heard, the Chair will declare the hearing closed and ask the Licensing Officer, the Applicant and Representors (or their representatives) plus any witnesses present to leave the committee room and wait in reception while the Sub-Committee considers the evidence.

Procedure after the Hearing

19. If the Sub-Committee wish to seek further clarification on the evidence given, the Democracy Officer will invite all parties back into the committee room.
20. If possible, the Sub-Committee will make a decision on conclusion of the hearing and only the Democracy Officer and the Legal Advisor to the Sub-Committee (*if present*) will remain in the room with the Committee Members. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.
21. If the decision has been made, all the parties will be invited back into the committee room by the Democracy Officer. The Chair will announce the

decision including reasons together with, if appropriate, details of any conditions to be attached to the grant of the licence. This decision will then be communicated in writing to the Applicant and Representors within 3 working days of the hearing. There can be no further questions or statements.

22. If the Sub-Committee is unable to make a decision on the day of the hearing, the decision will be made within 5 working days beginning with the day or the last day on which the hearing was held. The Democracy Officer will inform the parties that they are no longer required and the decision will be communicated in writing to the Applicant and Representors within 3 working days of the decision being made.
23. The notification will include information about the rights of appeal against the determination made.

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Gambling and Licensing Acts Committee

8th June 2007

Report of the Director of Neighbourhood Services

Gambling Act 2005 - Fees

Summary

1. This report asks members to recommend to full council a scale of fees to be applied to the Gambling Act 2005 which becomes fully operational on 1st September 2007

Background

2. Under the Gambling Act 2005 councils will become responsible for licensing the following premises: casinos, bingo premises, betting shops, tracks, family entertainment and adult gaming centres. They are also responsible for issuing a range of gaming permits.
3. The government has set maximum premise licence fee levels which appear in the table at Annex 1. Councils may set their own fees up to these maximums but only on a cost recovery basis. The Gambling Act specifically states that local authorities shall; "aim to ensure that the income from feesnearly as possible equates to the cost of providing the service to which the fees relates"
4. The Local Authorities Coordinators of Regulatory Services (LACORS) is advising that the gambling industry is generally mistrustful of the suggestion that councils will set their fees below the maximums set by government, and takes the view that local authorities will be looking to maximise their revenues. Indeed LACORS understands that there may be a number of judicial review cases taken next year.
5. In carrying out this cost recovery exercise officers did not have the benefit of historical data, this being new legislation, and relied on best estimates. Despite the advice of LACORS it is known some local authorities have set fee levels at the maximum for the first year with a view to analysing actual costs.
6. Under the Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2007 the setting of fee levels is the responsibility of full council unless delegated elsewhere. Full council on the 24th May 2007 delegated the responsibility for fee setting to this committee

Consultation

7. There has been no external consultation undertaken on this issue. Democratic and Legal services have provided data used in the calculations .

Options

8. Officers have prepared estimates of the anticipated costs in relation to the exercise of the various premise licensing functions under the Act and also for the different classes of premises. The actual working documents are included at Annex 1. Option 1 (Annex 2) shows proposed fees as directly derived from the working papers. Option 2 (Annex 3) shows proposals based on anticipated total costs but proportioned by premise type in line with Government maximums.

Members may also consider setting fees at the statutory maximums (option 3) any other fee structure as they see appropriate (option 4)

Analysis

9. Option1. This option shows the best estimate at calculating proposed fees based on actual costs per type of premise. It therefore represents the safest option in terms of potential for legal challenge. It does not directly mirror the variances between premise types as demonstrated in the statutory maximums. The result of this being that betting shops and family entertainment centres are nearer the maximum levels for each activity than other premises. These type of premises are often smaller independent operators.
10. Option 2. This option is based on the actual anticipated costs for each activity but the costs are proportionally spread across all types of premise in line with the statutory maximums. Detailed calculations indicate that in total CYC proposed costs are approximately 80% of the maximum, therefore fees in this proposal are based at 80% of the maximum for each type of premise and activity. This approach would see each type of premise bearing an equal proportion of the total cost. It is felt this option could be defended, if challenged, on the basis of cost recovery for the whole function rather than independent components.
11. Option 3. A decision to set levels at the maximum could attract costly judicial review. It could also be detrimental to local businesses
12. Option 4. Any other option could also attract judicial review unless it can be proved it has been properly costed to only recover legitimate costs in providing the service.

Corporate Priorities

13. This is a statutory requirement and has no direct connection to the Corporate priorities

Implications

14.

- **Financial:** Financial implications are included above. If option 1 or 2 are agreed then it is anticipated that fee income would match expenditure so there are no budget implications. Variance analysis of budget against actual income will take place as part of the budget monitoring process to ensure that fees are set at the correct amount.
- **Human Resources: (HR)** The issuing of licences will be contained within existing staffing levels
- **Equalities: None**
- **Legal: None**
- **Crime and Disorder: None**
- **Information Technology (IT): None**
- **Property: None**
- **Other: None**

Risk Management

15. The risk of setting fees above cost recovery level is that the council maybe subject to judicial review and the consequences of such is that the Council may incur significant costs.

Recommendations

16. Members are asked to approve the fee levels as proposed at option 2 and set out in Annex 3 to be applied for the implementation of the Gambling Act 2005.

Reason: This uses the best estimate of projected costs most likely to achieve full cost recovery and supports smaller local business without facing undue risk of legal challenge.

Contact Details

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Tel 01904 551816

Report Approved

Date 24 May 2007

Specialist Implications Officer(s) None

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

Gambling Act 2005
DCMS Guidance to Licensing Authorities on setting premises licence fees

Annexes

Annex 1 Working papers showing costing details
Annex 2 Proposed fees set out as option 1
Annex 3 Proposed fees set out as option 2

Number of Premise requiring a premise licence initially in our area:

Bingo Halls – 2	Betting Offices – 31 approx
Arcades – 4	Racecourse

Standard Costs**Hearings/Reviews**

Licensing Officers prepare report	3 hrs @ £38	£114	
Licensing Officer time at hearing	3 hrs @ £50	£150	
Generate licence	30 mins additional time required @ £38	£19	
Check/sign licence	30 mins additional time required @£38	£19	
Democracy Services	Cost per hearing (LA 2003 experience)	£200	
Legal Services	5hrs @ £75	£375	
Total		£877	

Mediation	3 hrs @ £50	£150
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General Enforcement	250 hrs @ £30	£ 7500
Additional admin	£30/ hr	
Appeals	Estimate £ 2000	

Fast Track Applications - Max fee £300.00**Costing**

Publicity and advice	1.5hrs @ £30	£45.00
Admin on receipt of app	1 hr @ £30	£30.00
Officer time on receipt of app	30 mins @ £30	£15.00
Generate licence	1 hr @ £30	£30.00
Checking/Sign licence	30 mins @ £38	£19.00
Update register etc and issue	30 mins @ £30	£15.00
Total		£154.00

Non Fast Track Applications**Maximum fees**

Bingo premise licence	£1750.00
Adult gaming centre premise licence	£1000.00
Betting premise (track) licence	£1250.00
Family entertainment centre premise licence	£1000.00
Betting premise (other) licence	£1500.00

Costing

Publicity and advice	1hr 30 mins @ £30	£45.00
Admin on receipt of app	1 hr @ £30	£30
Officer time on receipt of app	1 hr @ £30	£30
Notice check/statement	1hr 30 mins @ £30	£45
Inspection: Bingo	5hrs @ £30	£150
Betting Premise	4hrs @ £30	£120
Betting Track	4hrs @ £30	£120
Adult/Family Centre	3hrs @ £30	£ 90
Generate licence	1 hr 30 mins @ £30	£45
Check/sign licence	30 mins @ £38	£19
Notify on grant	1 hr @£30	£30
Update register etc and issue	30 mins @ £30	£15
Proportion of hearing costs(say 1 hearing)	£877 x25%	£219
Include for appeal	£2000x25%	£500
Total Bingo		£1128
Betting Premise		£1098
Betting Track		£1098
Adult/Family Centre		£1068* estimate exceeds maximum

Annual fee**Maximum (first payable by 31 Oct 2007)**

Bingo premise licence	£1000.00
Adult gaming centre premise licence	£1000.00
Betting premise (track) licence	£1000.00
Family entertainment centre premise licence	£750.00
Betting premise (other) licence	£600.00

Costing

Request payment	1 hr	£30
Receipt payment and record update	1 hr 30 mins	£45
Inspection/visit : Bingo	5hrs @ £30	£150
Betting Premises	3hrs @ £30	£90
Betting Track	5hrs @ £30	£150
Adult Gaming Centre	5hrs @ £30	£150
Family Ent. Centre	4hrs @ £30	£120
Enforcement /Compliance Action	4 hrs @ £30	£120
General Enforcement (proportion of 250hrs)	$(250 \div 38) \times 30$	£197
Annualised policy work	1 hr @ £50	£50
Reviews (proportion of say 2/year)	$(877 \times 2) \div 38$	£46
Mediation (proportion of say 2x year)	$(150 \times 2) \div 38$	£8
Include for appeal (1 per year)	$2000 \div 38$	£52
Total Bingo		£698
Betting Track		£698
Adult Gaming Centre		£698
Family Ent. Centre		£668
Betting Premises		£638* estimate exceeds maximum

Grant of Premise Licence and Provisional Statement

Maximum fees

Bingo premise licence	£3500.00
Adult gaming centre premise licence	£2000.00
Betting premise (track) licence	£2500.00
Family entertainment centre premise licence	£2000.00
Betting premise (other) licence	£3000.00

Costing

Publicity and advice	1hr 30 mins @ £30	£45.00
Admin on receipt of app	1 hr @ £30	£30
Officer time on receipt of app	4 hr @ £30	£120
Notice check/statement	1hr 30 mins @ £30	£45
Inspection: Bingo	5hrs @ £30	£150
Betting Premise	5hrs @ £30	£150
Betting Track	4hrs @ £30	£120
Adult/Family Centre	3hrs @ £30	£ 90
Generate licence	1 hr 30 mins @ £30	£45
Check/sign licence	30 mins @ £38	£19
Notify on grant	1 hr @£30	£30
Update register etc and issue	30 mins @ £30	£15
Proportion of hearing costs (say 75% likelihood of hearing)	£877 x 75%	£658
Include for appeal (say 50% likelihood of appeal)	£2000÷2	£1000
Total Bingo		£2157
Betting Premise		£2157
Betting Track		£2127
Adult/Family Centre		£2097* estimates exceed max

Variation of Premise Licence

Maximum fees

Bingo premise licence	£1750.00
Adult gaming centre premise licence	£1000.00
Betting premise (track) licence	£1250.00
Family entertainment centre premise licence	£1000.00
Betting premise (other) licence	£1500.00

Costing

Publicity and advice	30 mins @ £30	£15
Admin on receipt of app	1 hr @£30	£30
Officer time on receipt of app	1 hr @ £30	£30
Notice check	1hr 30 mins @ £30	£45
Inspection/visit : Bingo	5hrs @ £30	£150
Betting Premises	4hrs @ £30	£120
Betting Track	3hrs @ £30	£90
Adult Gaming Centre	2.5hrs @ £30	£75
Family Ent. Centre	2.5hrs @ £30	£75
Generate licence	1 hr 30 mins @£30	£45
Check/sign licence	1 hr @ £38	£38
Notify on grant	1 hr @ £30	£30
Update register etc and issue	30 mins @£30	£15
Proportion of hearing costs (say 75% likelihood of hearing)	£877 x 75%	£658
Include for appeal (say 10% likelihood of appeal)	£2000x10%	£200
Total : Bingo		£1256
Betting Premise		£1226
Betting Track		£1196
Adult/ Fam Centres		£1181* estimate exceeds max

Transfer of premise licence

Maximum fees

Bingo premise licence	£1200.00
Adult gaming centre premise licence	£1200.00
Betting premise (track) licence	£950.00
Family entertainment centre premise licence	£950.00
Betting premise (other) licence	£1200.00

Costing

Publicity and advice	30 mins @ £30	£15
Admin on receipt of app	1 hr @ £30	£30
Officer time on receipt of app	1 hr @ £30	£30
Notice check	1hr 30 mins @ £30	£45
Inspection/visit : Bingo	5hrs @ £30	£150
Betting Premises	4hrs @ £30	£120
Betting Track	3hrs @ £30	£90
Adult Gaming Centre	2.5hrs @ £30	£75
Family Ent. Centre	2.5hrs @ £30	£75
Generate licence	1 hr 30 mins @ £30	£45
Check/sign licence	1 hr @ £38	£38
Notify on grant	1 hr @ £30	£30
Update register etc and issue	30 mins @ £30	£15
Proportion of hearing costs (say 50% likelihood of hearing)	£877 x 50%	£438
Include for appeal (say 5% likelihood of appeal)	£2000x 5%	£100
Total : Bingo		£936
Betting Premise		£906
Betting Track		£876
Adult/ Fam Centres		£861

Reinstatement of a premise licence

Maximum fees

Bingo premise licence	£1200.00
Adult gaming centre premise licence	£1200.00
Betting premise (track) licence	£950.00
Family entertainment centre premise licence	£950.00
Betting premise (other) licence	£1200.00

Costing

Publicity and advice	30 mins @ £30	£15
Admin on receipt of app	1 hr @£30	£30
Officer time on receipt of app	1 hr @ £30	£30
Notice check	1hr 30 mins @ £30	£45
Inspection/visit : Bingo	5hrs @ £30	£150
Betting Premises	4hrs @ £30	£120
Betting Track	3hrs @ £30	£90
Adult Gaming Centre	2.5hrs @ £30	£75
Family Ent. Centre	2.5hrs @ £30	£75
Generate licence	1 hr 30 mins @£30	£45
Check/sign licence	1 hr @ £38	£38
Notify on grant	1 hr @ £30	£30
Update register etc and issue	30 mins @£30	£15
Proportion of hearing costs (say 50% likelihood of hearing)	£877 x50%	£438
Include for appeal (say 5% likelihood of appeal)	£2000x5%	£100
Total : Bingo		£936
Betting Premise		£906
Betting Track		£876
Adult/ Fam Centres		£861

Miscellaneous

Fee for copy of licence £25.00

Fee for change of circumstance £50.00

ANNEX 2

Proposed Gambling Act Licence Fees (Option 1)

(Statutory Maximums in brackets)

Premise Type	FT(£)	Non FT(£)	Grant(£)	Variation(£)	Transfer(£)	Reinstatement(£)	Provisional Statement(£)
Bingo	154 (300)	1130 (1750)	2160 (3500)	1260 (1750)	940 (1200)	940 (1200)	2160 (3500)
Adult	154 (300)	1000 (1000)	2000 (2000)	1000 (1000)	860 (1200)	860 (1200)	2000 (2000)
Betting (track)	154 (300)	1100 (1250)	2130 (2500)	1200 (1250)	880 (950)	880 (950)	2130 (2500)
Family	154 (300)	1000 (1000)	2000 (2000)	1000 (1000)	860 (950)	860 (950)	2000 (2000)
Betting (other)	154 (300)	1100 (1500)	2160 (3000)	1230 (1500)	900 (1200)	910 (1200)	2160 (3000)

Annual Charge

Premise Type	£'s
Bingo	700 (1000)
Adult	700 (1000)
Betting (track)	700 (1000)
Family	700 (750)
Betting (other)	600 (600)

Miscellaneous

Fee for copy of licence £25

Fee for change of circumstance £50

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ANNEX 3

Proposed Gambling Act Licence Fees (Option 2)

(Statutory Maximums in brackets)

Premise Type	FT(£)	Non FT(£)	Grant(£)	Variation(£)	Transfer(£)	Reinstatement(£)	Provisional Statement(£)
Bingo	240 (300)	1400 (1750)	2800 (3500)	1400 (1750)	960 (1200)	960 (1200)	2800 (3500)
Adult	240 (300)	800 (1000)	1600 (2000)	800 (1000)	960 (1200)	960 (1200)	1600 (2000)
Betting (track)	240 (300)	1000 (1250)	2000 (2500)	1000 (1250)	760 (950)	760 (950)	2000 (2500)
Family	240 (300)	800 (1000)	1600 (2000)	800 (1000)	760 (950)	760 (950)	1600 (2000)
Betting (other)	240 (300)	1200 (1500)	2400 (3000)	1200 (1500)	960 (1200)	960 (1200)	2400 (3000)

Annual Charge

Premise Type	£'s
Bingo	800 (1000)
Adult	800 (1000)
Betting (track)	800 (1000)
Family	600 (750)
Betting (other)	480 (600)

Miscellaneous

Fee for copy of licence £25

Fee for change of circumstance £50

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