

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.

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Report Approved

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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