



REPORT TO: LICENSING COMMITTEE

DATE: 27 NOVEMBER 2008

HEAD OF SERVICE: ENVIRONMENT

REPORTING OFFICER: HEALTH AND ENVIRONMENT MANAGER
Steven Richmond

SUBJECT: GAMBLING ACT 2005 –SETTING OF FEES

WARDS AFFECTED: ALL

1.0 PURPOSE OF REPORT

1.1 To seek Members approval for the setting of fees under the provisions of the Gambling Act 2005

2.0 RECOMMENDATIONS

2.1 It is recommended that Members confirm the level of fees recommended in Annex B.

3.0 REASONS SUPPORTING DECISION

3.1 The setting of fees must relate to the costs incurred by the local authority and be defensible.

4.0 BACKGROUND

4.1 Under the provisions of section 154(2)(b) of The Gambling Act 2005 the licensing authority have the discretion to delegate the decision on the setting of fees to the Licensing Committee. This delegation was approved by Council on 8 March 2007.

5.0 INTRODUCTION

5.1 The report advises Members of the powers available under the Gambling Act and associated regulations on the setting of fees.

6.0 POLICY CONTEXT

6.1 The following policies have informed this report:

- Community Plan
- Corporate Plan
- Environmental Health Services Delivery Plan
- Corporate Risk Assessment
- Budget Policies

7.0 REPORT

7.1 Section 154 of the Gambling Act 2005 provides that all decisions relating to premises licences are delegated to the Licensing Committee of the authority that has been established under section 6 of the Licensing Act 2003, except:

- A resolution not to issue casino licences, which must be taken by the whole authority;
- Functions in relation to the three-year licensing policy, which must be taken by the whole authority; and
- Setting fees (to the extent that a licensing authority has delegated power in relation to fees). The licensing authority can delegate decisions to the Licensing Committee, but there is no automatic delegation, so each authority must decide its approach to setting fees.

The power of setting of fees was delegated to the Licensing Committee by Council on 8 March 2007.

7.2 The Gambling (Premises Licence Fees) (England and Wales) Regulations came into force on 21 May 2007. The regulations make provision about application, annual and other fees relating to premises licences issued under Part 8 of the Gambling Act 2005.

7.3 The Regulations provide that the following types of fees are to be determined by licensing authorities:

- Licence application fee
- First annual fee
- Annual fee
- Notification of a change of circumstance fee
- Application to vary a licence fee
- Application to transfer a licence fee
- Fee for a copy of a licence
- Application for reinstatement of a licence fee
- Provisional statement application fee

7.4 Part 9 of the Gambling act 2005 allows the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Applications for Temporary Use Notices under the gambling Act 2005 may be made to the Licensing Authority. In accordance with The Gambling Act (Temporary Use Notices) Regulations 2007, the Licensing Authority must determine the fee payable under Section 219(b) of the Act and this amount must not exceed £500 for the fee and £25 for an endorsed copy of the Temporary Use Notice.

In each case, the fee determined by a licensing authority must not exceed a maximum fee specified in the relevant regulation. Section 212 of the Act requires that the income from fees as near as possible equates to the costs of providing the service to which the fee relates. For the licensing authority this means that the service should be cost neutral. In determining application and other fees licensing must ensure that these are limited to recovery of the costs of carrying out their functions under the Act. Licensing authorities are required to review their fees on an annual basis. The existing fees are available in Annex A attached to this report. The suggested discretionary fees have been increased in line with the 2009/10 Revenue Budget and are available in Annex B.

8.0 OPTIONS

8.1 The options are for the proposals in relation to fees set out in the Schedule in Annex B be adopted or varied.

9.0 RESULT OF OPTION APPRAISAL

9.1 The Gambling (Premises Licences Fees) (England and Wales) Regulations 2007 and The Gambling act (Temporary Use Notices) Regulations 2007 require the licensing authority to set fees for the granting of premises licences. The Council has to review its fees on an annual basis.

10.0 FINANCIAL IMPLICATIONS

10.1 The above regulations set the maximum fee payable for each category of gambling premises licence and allow licensing authorities to determine their own fees, on a cost recovery basis. This means the service should be cost neutral. Licensing authorities have to review their fees annually to ensure that the income from the premises licence 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 the relevant functions

11.0 RISK ASSESSMENT

11.1 The fees have been calculated in accordance with LACORS guidance and have been benchmarked against other North Yorkshire authorities and are defensible if challenged.

12.0 CONCLUSION

12.1 The proposed fee structure has been calculated in accordance with recommended guidance and represents costs incurred by the Council in undertaking its relevant functions under the Gambling Act 2005. Fees have been increased in accordance with the Budget Strategy.

Background Papers:

The Gambling Act 2005. HMSO

The Gambling (Premises Licences Fees) (England and Wales) Regulations 2007. HMSO

Gambling Commission. **Gambling Commission Guidance to Licensing Authorities.** 28 April 2006

Gambling Act 2005 –Setting of fees for Temporary Use Notices –
Licensing Committee 29/11/07

Gambling Act 2005-Setting of fees – licensing Committee 29/11/07

OFFICER CONTACT:

Please contact Steven Richmond, Health and Environment Manager if you require any further information on the contents of this report. The officer can be contacted at Ryedale House, Malton ext. 247, or e mail: steve.richmond@ryedale.gov.uk.

LICENSING COMMITTEE

27 November 2008

RISK APPRAISAL FORM *(One for each Option)*

Policy Context	Risk Appraisal/Impact Assessment	Impact +ve -ve Neutral	Level of Risk
Community Plan Themes <i>(Identify any/all that apply)</i>	Strong and safe community – particularly with respect to Crime and Disorder. Vibrant communities – access to leisure and culture	+	
Corporate Objectives/ Priorities <i>(Identify any/all that apply)</i>	Aim - To have efficient and high quality services accessible to everyone in a way that suits them	+	
Service Priorities	The Environmental Health Services Delivery Plan has as one of its objectives the implementation of the Gambling Act 2005	+	
Financial	The setting of fees will be subject to a maximum level set down in the regulations. Fees have to be cost neutral and reviewed annually.	+	
Procurement Policies	N/A		
Asset Management Policies	N/A		
LA21 & Environment Charter	N/A		
Community Safety	N/A	+	
Equalities	N/A	+	
E-Government	N/A		
Risk Assessment	High. The Council should review its discretionary fees on an annual basis	+	High
Estimated Timescale for achievement	The discretionary fees should be reviewed annually	+	