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**PART A: MATTERS DEALT WITH UNDER DELEGATED POWERS**

**REPORT TO: LICENSING COMMITTEE**

**DATE: 26 NOVEMBER 2009**

**REPORT OF THE: HEAD OF ENVIRONMENT  
PHIL LONG**

**TITLE OF REPORT: GAMBLING ACT 2005- SETTING OF FEES**

**WARDS AFFECTED: ALL**

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

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

### **2.0 RECOMMENDATION**

2.1 It is recommended that:

- (i) Members confirm the level of fees recommended in Annex B

### **3.0 REASON FOR RECOMMENDATION**

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

### **4.0 SIGNIFICANT RISKS**

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

## **REPORT**

### **5.0 BACKGROUND AND INTRODUCTION**

5.1 Under the provisions of section 154(2)(b) of the Gambling Act 2005, the licensing authority has 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.

## **6.0 POLICY CONTEXT**

- 6.1 The following Policies have informed this report:
- Council Plan 2009-13
  - Health and Environment Service Delivery Plan
  - Budget Policy 2010/11

## **7.0 CONSULTATION**

- 7.1 No consultation has taken place in revising these fees

## **8.0 REPORT DETAILS**

- 8.1 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.

- 8.2 The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 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
- 8.3 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 suggested discretionary fees have been increased in line with the 2009/10 Revenue Budget and are available in Annex B.

## **9.0 IMPLICATIONS**

9.1 The following implications have been identified:

- a) **Financial:** 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 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.

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**Background Papers:**  
Nil