

BLAENAU GWENT COUNTY BOROUGH COUNCIL

Report to	CHAIR & MEMBERS OF THE STATUTORY LICENSING COMMITTEE
Report Subject	GAMBLING FEES
Report Author	ALISON HUGHES TEAM MANAGER LICENSING
Report date	JULY 2017
Directorate	ENVIRONMENT AND REGENERATION
Executive Portfolio	LICENSING
Date of meeting	
Date signed off by Monitoring Officer <i>(please note for decision making reports only, to be submitted by Performance Team)</i>	N/A
Date signed off by Section 151 Officer <i>(as above)</i>	N/A
Date signed off by Chair <i>(for all reports, to be submitted by Performance Team)</i>	N/A
Key words	Licensing Gambling Fees

Report Information Summary

1.	Purpose of Report*
1.1	To agree the fees to set for this Authority in relation to Premises Licences under the Gambling Act 2005 for 1st August 2017 – 31st July 2018
2.	Scope of the Report*
2.1	The report recommends revised annual fees charged under the provision of the Gambling Act 2005 in relation to Betting Shops, Tracks, Adult Gaming Centres, Family Entertainment Centres and Bingo Premises.
3.	Contribution to the National Well-Being Goals – Detail attached as Appendix 2
3.1	See Appendix 2
4.	Recommendation(s) / Endorsement by other groups, e.g. CMT/Committees/Other groups*
4.1	The report has been approved by Environment & Regeneration DMT and CMT. Under the constitution, final decision rest with Statutory Licensing Committee.
5.	Recommendation/s for Consideration*
5.1	That Members consider the calculated fees for 1 st August 2017 – 31 st July 2018 and confirm whether (i) They approve these fees as stated, or (ii) A reduction in the stated fees should be given in some or all cases

Why this topic is a priority for the Council?*							
<i>Report author to identify links to the main corporate strategies.</i>							
Single Integrated Plan (SIP)	Corporate Improvement Plan (CIP)	Performance Management Improvement Framework (PMIF)	Operating Model	Transforming Blaenau Gwent (TBG Programme)	Relevant legislation	Other (please state)	
					Y		
Reporting Pathway*							
<i>Report author to identify proposed reporting pathway. (To identify dates where relevant)</i>							
Directorate Management Team (DMT)	Corporate Management Team (CMT)	Audit	Democratic Services Committee	Scrutiny	Executive	Council	Other (please state)
✓	✓						Statutory Licensing Committee

*Denotes mandatory section

Main Report

1.	Background and Context*
1.1	<p>This Authority has a statutory duty under the Gambling Act 2005 to set fees for Premises Licences in accordance with the Gambling (Premises Licence) (England and Wales) Regulations 2007.</p> <p>Premises Licences will include Betting Shops, Tracks, Adult Gaming Centres, Family Entertainment Centres and Bingo Premises.</p>
1.2	<p>The general functions of the licensing authority in dealing with Gambling Premises Licences, including the setting of licence fees, has been delegated to the Licensing Committee under the Constitution of the Authority</p>
1.3	<p>The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 provided for the following types of fees to be determined by licensing authorities:</p> <ul style="list-style-type: none">• Licence application fee• First annual fee• Annual fee• Notification of change of circumstances fee• Application to vary a licence fee• Application to transfer a licence fee• Fee for a copy of a licence• Application for re-instatement of a licence fee• Provisional statement application fee. <p>These Regulations stipulate a maximum figure a local authority is permitted to charge for the licensing of premises under the Gambling Act 2005. Local authorities are permitted to charge a fee based on reasonable cost recovery up to this maximum, but not above. Where the costs of the authority exceed the amount they are able to charge, this cost must be borne by the Authority.</p> <p>The maximum license fees that we are permitted to charge are shown in column 1 of Appendix 1.</p>
1.4	<p>The Authority currently licences the following premises under the Gambling Act 2005,</p> <p>Alcohol Licence Permit – 4 Club Machine Permit – 17</p>

	<p>Betting Office – 10 Adult Gaming Centre – 3</p> <p>The Alcohol Licence and Club Machine Permit fees are determined by Government, and do not therefore form part of this report.</p> <p>The licence fees currently being charged are shown in column 2 of Appendix 1</p>
1.5	<p>When calculating new licence fee costs, there is a range of legislation and guidance around fee setting for local authorities that must be taken into account. These include</p> <ol style="list-style-type: none"> 1 The Provision of Services Regulations 2009, which states that any charges provided for by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities. 2 The guidance contained in Open for business: LGA guidance on locally set fees, and the BIS Guidance for Business on the Provision of Services Regulations 3 Appropriate case law – and in particular to Hemmings v Westminster, which is still before the courts
1.6	<p>Under the Provision of Services Regulations 2009, and confirmed in Hemmings V Westminster, only the administration and associated activities directly related to a licence can be charged as part of a licence fee. The costs of any investigation of unlicensed premises and other associated activities, and background activities such as FOI requests, statistical returns etc. cannot be included, and these costs must be borne by the Authority.</p> <p>The Hemmings v Westminster case is important, as it establishes that only certain matters may be charged as part of a licence fee.</p> <p>Licence fees may be subject to judicial review, and a small number of local authorities have been required to refund part of their licence fees going back a number of years where they have been found to be charging more than is permitted.</p>
1.7	<p>Local Authorities incur various direct and indirect costs in the administration and enforcement of licences, including</p>

	<ol style="list-style-type: none"> 1 Implementation costs, including the costs of developing policies and setting fees, authorisation of officers, management of the licensing function etc. 2 Direct staff costs, including on-costs, travel, staff training etc. and including the costs of any senior managers, licensing committees etc. directly involved in the licensing process. 3 Indirect costs that support the licensing function, such as general management functions, Legal, HR, finance, customer call centres etc. 4 Specialist equipment costs, particularly the use of specialist IT databases to record and report this work 5 Any third party costs used for inspection and enforcement etc. <p>Many of these costs are shared with other activities across the team and the department, and are therefore charged on a pro-rata basis.</p>
1.8	<p>In order to calculate the reasonable cost recovery for each type of fee, the following steps have been taken</p> <ol style="list-style-type: none"> 1 The licence steps and average time taken for each step, including the development of policies etc., have been calculated. For simplicity, licences have been grouped based on the lower level of activity expected because the time taken can be variable within each group. 2 On-costs and indirect costs have been calculated by the finance team 3 Specialist costs and similar have been based on invoiced costs as appropriate <p>Each of these costs has been entered into a specialist licence cost spreadsheet developed by the Welsh Licensing Expert Panel, which is used across Wales and has now been adopted by the Local Government Association. The costs calculated using this methodology have not been tested through the courts, but are believed to be sufficiently robust to answer any legal or other concerns.</p> <p>The fee costs calculated from the 1st August 2017 are shown in column 3 of Appendix 1.</p>

1.9	<p>A number of application, transfer and variation fees have fallen significantly as a result of this calculation process. This has occurred for two main reasons, namely</p> <ol style="list-style-type: none"> 1 Previous fees were based on the time taken to administer and enforce new legislation. Officers are now more au fait with this legislation and the processes are accordingly more streamlined 2 The collaboration with Torfaen County Borough Council is now delivering management and other cost savings that are reflected in the reduced fees for businesses seeking our services.
1.10	<p>Local authorities are not obliged to charge the maximum they have calculated as a reasonable cost recovery level. A lower fee can be charged, but the difference between this lower fee and the cost recovery level must be borne by the authority and cannot be re-charged to other businesses. Local Authorities may choose to charge a lower fee for a number of reasons, for example where</p> <ol style="list-style-type: none"> (i) The new fee is significantly higher than the previous fee level, and a graduated increase is considered fairer to businesses, (ii) The fee is high and would adversely affect small businesses, or (iii) The fee could deter businesses from becoming licensed, and it is more cost effective to reduce fee levels than meet the considerable costs of investigating and enforcing in respect of unlicensed businesses <p>Members may wish to consider whether there is a case for the reduction of any gambling licence fee charged by the authority for the forthcoming year.</p>
1.11	<p>Once agreed, the fees approved by Members will be placed on the website and notified to applicants from the 1st August 2017.</p> <p>The proposed fees from the 1st August 2017 are shown in column 4 of Appendix 1. For simplicity, these have been rounded down to the nearest £.</p>
2.	Performance Evidence and Information*

2.1	Evidence of the way in which fees are calculated will be retained by the authority for a minimum of 7 years, in case of future judicial reviews.
2.2	<p>Each year, the following review process will be followed</p> <ol style="list-style-type: none"> 1 The process for setting fees will be reviewed to ensure that they remain valid – any changes in law, guidance or case law will be taken into account 2 The underlying data determining the fees will be reviewed, and in particular <ol style="list-style-type: none"> a. The activity sheet for each licence will be reviewed to ensure that these remain accurate b. Finance will be asked to update the staff hourly costs, including on-costs c. The Supporting Functions activity sheet will be reviewed to ensure it remains relevant. d. If there was a significant profit in the previous licence period, the fee for the next period will need to be reduce by the same amount 3 The cost calculator will be updated as required to show any changes in fees 4 The fee structure and accompanying reports will be submitted to the appropriate committee for approval in accordance with the Constitution of the authority
3.	Risk Implications*
3.1	The calculation of fees is complex, but the use of the methodology developed by the Welsh Licensing Expert Panel and adopted by the Local Government Association should minimise the risk of a judicial review of these fees.
4.	Financial Implications* (to include any VAT implications)
4.1	<p>The maximum fee permitted has been calculated in order to ensure effective cost recovery wherever possible.</p> <p>The fees calculated will affect 13 existing premises in respect of their annual fees, as follows</p>

Premises type	Number of premises	Existing fee	New fee	Income change
Betting (other)	10	£540	£600	£600 increase
Adult Gaming Centre	3	£606	£675	£207 increase

The fee income from new, transfer and variation applications will be considerably lower than previously. However, such applications are rare, at less than one per annum, and are treated as unexpected income. The financial impact will therefore be minimal.

5. Staffing/Workforce Development Implications*

5.1 This report reflects work carried out by the Licensing team within existing resources, and there are therefore no staffing/workforce implications.

6. Options for Consideration

6.1 The options that can be taken include the decision that

- 1 The fees are accepted by Members as stated in column 3 of Appendix 1
- 2 The fees are reduced for some or all of these fees, with the resulting loss of income covered by the authority, or
- 3 Some or all of these fees are rejected, and Members indicate how these should be re-calculated as appropriate

Impact Assessment Against Proposals / Options*

7.1

- **Thinking for the long term**
This report refers to fees for the coming year, but is subject to annual review
- **Taking an integrated approach**
This report refers to fees for work carried out by the authority, and the costs to other teams and departments across the authority have been fully considered in determining these fees
- **Taking a preventative approach**
This report refers to fees for the coming year and is not therefore preventative in nature other than if fees are reduced to ensure legal compliance
- **Collaborating**
These fees have been calculated in collaboration with other teams and departments, and with Torfaen County Borough Council.

	<ul style="list-style-type: none"> • Involvement This report refers to fees for the coming year in respect of statutory functions.
7.2	Equality Impact Assessment (EQIA) No adverse impact against the protected characteristics
8.	Conclusion*
8.1	<p>This Authority has a statutory duty under the Gambling Act 2005 to set fees for Premises Licences in accordance with the Gambling (Premises Licence) (England and Wales) Regulations 2007.</p> <p>The reasonable fees that can be charged have been calculated for the year 1st August 2017 to 31st July 2018, as shown in Appendix 1.</p>

*Denotes mandatory section

APPENDIX 1

	MAXIMUM PERMITTED FEES ALLOWED (1)	EXISTING FEES (to August 2017) (2)	MAXIMUM FEE CALCULATION (3)	PROPOSED FEE FROM 1st AUGUST 2017 (4)
Application Fee				
Bingo Premises Licence	£3,500	3150	926.30	£926
Adult Gaming Centre Premises Licence	£2,000	1800	926.30	£926
Betting Premises (Track) Licence	£2,500	2250	926.30	£926
Family Ent Centre Premise Licence	£2,000	1800	926.30	£926
Betting Premises (Other) Licence	£3,000	2700	926.30	£926
Application Fee where Provisional Statement Previously Issued				
Bingo Premises Licence	£1,200	1080	899.70	£899
Adult Gaming Centre Premises Licence	£1,200	1080	899.70	£899
Betting Premises (Track) Licence	£950	855	899.70	£899
Family Ent Centre Premise Licence	£950	855	899.70	£899
Betting Premises (Other) Licence	£1,200	1080	899.70	£899
Annual Fee				
Bingo Premises Licence	£1,000	900	675.48	£675
Adult Gaming Centre Premises Licence	£1,000	606	675.48	£675
Betting Premises (Track) Licence	£1,000	900	675.48	£675
Family Ent Centre Premise Licence	£750	606	675.48	£675
Betting Premises (Other) Licence	£600	540	675.48	£600
Transfer Application Fee				
Bingo Premises Licence	£1,200	1080	810.00	£810
Adult Gaming Centre Premises Licence	£1,200	1080	810.00	£810
Betting Premises (Track) Licence	£950	855	810.00	£810
Family Ent Centre Premise Licence	£950	855	810.00	£810
Betting Premises (Other) Licence	£1,200	1080	810.00	£810
Variation Application Fee				
Bingo Premises Licence	£1,750	1575	899.70	£899
Adult Gaming Centre Premises Licence	£1,000	900	899.70	£899
Betting Premises (Track) Licence	£1,250	1125	899.70	£899
Family Ent Centre Premise Licence	£1,000	900	899.70	£899
Betting Premises (Other) Licence	£1,500	1350	899.70	£899
Provisional Statement Application Fee				
Bingo Premises Licence	£3,500	3150	833.00	£833
Adult Gaming Centre Premises Licence	£2,000	1800	833.00	£833
Betting Premises (Track) Licence	£2,500	2250	833.00	£833
Family Ent Centre Premise Licence	£2,000	1800	833.00	£833
Betting Premises (Other) Licence	£3,000	2700	833.00	£833
Application for Reinstatement Fee				
Bingo Premises Licence	£1,200	1080	812.30	£812
Adult Gaming Centre Premises Licence	£1,200	1080	812.30	£812
Betting Premises (Track) Licence	£950	855	812.30	£812
Family Ent Centre Premise Licence	£950	855	812.30	£812
Betting Premises (Other) Licence	£1,200	1080	812.30	£812
Change of Circumstances Fee	£50	0	50	£50
Duplicate Licence Fee	£25	15	25	£25