

North East Derbyshire District Council

Licensing & Gambling Acts Committee

20 June 2019

<p>Licence fee review for Gambling Act 2005</p>
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Report No EMH/3/19-20/KR of the Environmental Health Manager

This report is public

Purpose of the Report

- To review the licence fees charged by the Authority in respect of Gambling Act premises licences and annual fees.

1 Report Details

Background

- 1.1 The Licensing Authority have the power to set certain licence fees for premises where gambling takes place under the provisions of the Gambling Act 2005 ('The Act'). In essence the Council may set licence fees in respect of all premises that hold a premises licence.
- 1.2 Fees in respect of permits are set by statute and therefore have not been included within this report.
- 1.3 Members will no doubt be aware that the Council cannot make a profit from licence fees and cannot cross subsidise other areas of licensing. There have been a number of legal challenges against Licensing Authorities elsewhere in England and Wales which reinforce this principle.
- 1.4 The Act, at Section 212, permits the Council to recover costs associated with administering each licence type and also permits the authority, should they wish to do so, to charge differing fees for different classes of premises. The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 sets statutory maximum levels to prevent Licensing Authorities from charging excessive fees for the licences they issue. The statutory fee levels are set out in the fee table at Appendix 1.

- 1.5 The Licence fees in respect of Gambling Premises were last reviewed approximately five years ago.
- 1.6 The Authority currently licences the following numbers and types of Gambling Premises:

Type of licenced premises	Current number of licensed premises
Large Casino	0
Small Casino	0
Bingo Premises	0
Adult Gaming Centre	0
Family Entertainment Centre	0
Betting Premises (Track)	0
Betting Premises (Other)	7

- 1.5 The legislation does not require the Authority to consult on any proposed amendments to licence fees with the public or members of the trade, however, it is considered best practice that a basic consultation exercise is undertaken. Should Members provisionally approve the revised fees then Officers will undertake a consultation exercise prior to the final adoption of the fees.

Any objections or comments received will be considered by Officers together with the Chair of the Licensing Committee before a final decision on whether or not to introduce the licence fees is taken.

- 1.6 The Council does not currently licence any large or small casinos. Therefore while the fees have been calculated in respect of these types of premises, Officers have very little information available from which they can determine them and therefore they are considered to be a 'best guess' at this time. Should the Council licence any casino premises in the future then the fees will be recalculated once more information is available to ensure that the fees are set at a level which do not exceed the costs incurred by the Authority.
- 1.7 The statutory maximum, current and proposed licence fees are set out in the table at Appendix 1.
- 1.8 Any changes to licence fees will have an impact on the levels of income for the Licensing Authority. Ultimately however, as has been stated earlier in the report, the Authority are not permitted to make a profit from licence fees.

Over the last few years the Council has received an average of less than one application per year for a gambling premises licence and therefore any income received from applications is extremely difficult to quantify.

A table is provided below to outline the variation in annual fee income that will occur should the proposed licence fees be adopted by the Authority:

Premises type	Current number of premises	Current amount of annual fees	Current income	Future annual fees	Future income	Difference in annual fee income
Large Casino	0	£2,180.00	£0.00	£6,500.00	£0.00	£0.00
Small Casino	0	£1,661.50	£0.00	£3,250.00	£0.00	£0.00
Bingo Premises	0	£727.00	£0.00	£502.00*	£0.00	£0.00
Adult Gaming Centre	0	£727.00	£0.00	£502.00*	£0.00	£0.00
Family Entertainment Centre	0	£727.00	£0.00	£502.00*	£0.00	£0.00
Betting Premises (Track)	0	£727.00	£0.00	£502.00*	£0.00	£0.00
Betting Premises (Other)	7	£390.00	£2,730.00	£502.00*	£3,514.00	£784.00
				Total difference in income		£784.00

*Figures have been rounded to the nearest whole pound for ease of processing

2 Conclusions and Reasons for Recommendation

- 2.1 The Council may only recover costs for the licensing regime on a cost-recovery basis and it cannot make a profit from these fees or subsidise other areas of licensing from fees recovered. The Council must be able to show that it has a robust accounting system and system of calculating both its costs and the fees it charges. In addition, any surplus or deficit created from each area of licensing must be carried forward and used in the calculation of future license fees. Failure to do so may result in a legal challenge, either by means of a Judicial Review or complaint to the District Auditor.

3 Consultation and Equality Impact

3.1 None

4 Alternative Options and Reasons for Rejection

4.1 None

5 Implications

5.1 Finance and Risk Implications

5.1.1 The Council may only recover costs for the licensing regime on a cost-recovery basis and it cannot make a profit from these fees or subsidise other areas of licensing from fees recovered. The Council must be able to show that it has a robust accounting system and system of calculating both its costs and the fees it charges. In addition, any surplus or deficit created from each area of licensing must be carried forward and used in the calculation of future license fees. Failure to do so may result in a legal challenge, either by means of a Judicial Review or complaint to the District Auditor.

5.2 Legal Implications including Data Protection

5.2.1 Failing to set licence fees in accordance with the statutory requirements may lead to a challenge against the Council's accounts. This may result in any unlawful licence fees having to be refunded to members of the trade.

5.3 Human Resources Implications

5.3.1 None

6 Recommendations

6.1 That the Licensing Committee approves the revised draft licence fees and instructs Officers to undertake a consultation exercise with licence holders, the public and interested parties.

6.2 Should no objections be received to the proposed licence fees then the revised licence fees should be introduced at the earliest opportunity.

6.3 Should objections be received then these will be considered by Officers in conjunction with the Chair of Licensing and a decision made whether or not to implement the licence fees as proposed.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed	Yes
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
Appendix 1	Table of licence fees, including the statutory maximums, current and proposed fees.
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
None	
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Appendix 1

Class of Premises Licence	Type of fee	New Licence (No provisional statement)	New Licence (Provisional statement held)	Provisional Statement	Annual Fee	Variation	Transfer	Reinstatement of Licence	Copy of Licence	Notification of Change
Large Casino	Statutory maximum	£10,000.00	£5,000.00	£10,000.00	£10,000.00	£5,000.00	£2,150.00	£2,150.00	£25.00	£50.00
	Current licence fee	£6,438.00	£3,644.50	£7,788.00	£2,180.00	£1,038.50	£1,400.00	£934.50	£20.50	£41.50
	Proposed Licence Fee	£6,500.00	£3,250.00	£6,500.00	£6,500.00	£3,250.00	£1,400.00	£1,400.00	£25.00	£50.00
Small Casino	Statutory maximum	£8,000.00	£3,000.00	£8,000.00	£5,000.00	£4,000.00	£1,800.00	£1,800.00	£25.00	£50.00
	Current Licence Fee	£4,672.00	£2,855.50	£5,711.00	£1,661.50	£934.50	£934.50	£779.00	£20.50	£41.50
	Proposed Licence Fee	£5,200.00	£1,950.00	£3,250.00	£3,250.00	£2,600.00	£1,170.00	£1,170.00	£25.00	£50.00
Bingo Premises Licence	Statutory maximum	£3,500.00	£1,200.00	£3,500.00	£1,000.00	£1,750.00	£1,200.00	£1,200.00	£25.00	£50.00
	Current Licence Fee	£1,557.50	£780.00	£1,806.50	£727.00	£767.50	£765.50	£623.00	£20.50	£41.50
	Proposed Licence Fee	£1,822.82	£680.00	£1,822.82	£501.66	£915.00	£680.00	£680.00	£25.00	£50.00
Adult Gaming Centre Premises Licence	Statutory maximum	£2,000.00	£1,200.00	£2,000.00	£1,000.00	£1,000.00	£1,200.00	£1,200.00	£25.00	£50.00
	Current Licence Fee	£1,142.00	£914.00	£1,246.00	£727.00	£767.50	£767.50	£623.00	£20.50	£41.50
	Proposed Licence Fee	£1,822.82	£680.00	£1,822.82	£501.66	£915.00	£680.00	£680.00	£25.00	£50.00

Class of Premises Licence	Type of fee	New Licence (No provisional statement)	New Licence (Provisional statement held)	Provisional Statement	Annual Fee	Variation	Transfer	Reinstatement of Licence	Copy of Licence	Notification of Change
Family Entertainment Centre Premises Licence	Statutory maximum	£2,000.00	£950.00	£2,000.00	£750.00	£1,000.00	£950.00	£950.00	£25.00	£50.00
	Current Licence Fee	£1,142.00	£727.00	£1,246.00	£727.00	£767.50	£767.50	£623.00	£20.50	£41.50
	Proposed Licence Fee	£1,822.82	£680.00	£1,822.82	£501.66	£915.00	£680.00	£680.00	£25.00	£50.00
Betting Premises (Track) Licence	Statutory maximum	£2,500.00	£950.00	£2,500.00	£1,000.00	£1,250.00	£950.00	£950.00	£25.00	£50.00
	Current Licence Fee	£1,142.00	£727.00	£1,163.00	£727.00	£767.50	£765.50	£623.00	£20.00	£40.00
	Proposed Licence Fee	£1,822.82	£680.00	£1,822.82	£501.66	£915.00	£680.00	£680.00	£25.00	£50.00
Betting Premises (excluding Track)	Statutory maximum	£3,000.00	£1,200.00	£3,000.00	£600.00	£1,500.00	£1,200.00	£1,200.00	£25.00	£50.00
	Current Licence Fee	£830.00	£830.50	£1,765.00	£390.00	£767.50	£767.50	£623.00	£20.00	£40.00
	Proposed Licence Fee	£1,822.82	£680.00	£1,822.82	£501.66	£915.00	£680.00	£680.00	£25.00	£50.00