

Item No: 8.	Classification: Open	Date: May 23 2007	Meeting Name: Council Assembly
Report title:		Gambling Act 2005 – Licensing Fees & Charges 2007-8	
Ward(s) or groups affected		All wards	
From:		Strategic Director of Environment and Housing	

RECOMMENDATION

1. That approval be given to the proposed schedule of fees and charges for 2007-8 in respect of licences and other related consents under the Gambling Act 2005, as set out in Appendix A to this report.

BACKGROUND INFORMATION

2. The Gambling Act 2005 takes effect on 1 September 2007. The Act provides a new regulatory system to govern the provision of all gambling in Great Britain, other than the National Lottery and spread betting.
3. As part of this new regulatory system the Gambling Commission and the local licensing authorities become responsible for issuing a range of licences and other related consents under the Act. As the licensing authority for Southwark, this Council becomes responsible for issuing various classes of gambling premises licence and a number of other permits and consents.
4. The Act gives the Secretary of State powers to make regulations prescribing the fees payable for premises licences and permits and other miscellaneous fees.
5. The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 are made under Section 212 of the Act and this part of the Act and the Regulations themselves come into force on 21 May 2007 (the day on which the first applications for gambling premises licences may be made to the Council under the Act). The Regulations provide that, in the case of premises licences, local licensing authorities may set their own fees subject to those fees not exceeding stated permitted maxima.
6. This report sets out the proposals for the range of gambling premises licence fees for Southwark for the transitional period of the Gambling Act 2005 (21 May 2007 through to 1 September 2007) and for the first financial year 2007/2008. Thereafter gambling premises licence fees are required to be reviewed annually.
7. Other fees and charges payable to the Authority under the Act are laid down by other Regulations.

KEY ISSUES FOR CONSIDERATION

Range of fees and charges under consideration

8. Categories of gambling premises licence covered by this report are

- a) Regional casino premises licence;
- b) Large casino premises licence;
- c) Small casino premises licence;
- d) Converted casino premises licence;
- e) Bingo premises licence
- f) Adult gaming centre premises licence;
- g) Betting premises (track) licence;
- h) Family entertainment centre premises licence; and
- i) Betting premises (other) licence.

9. Types of application covered by this report are

- a) Conversion applications (via either fast track or non-fast track route or for a provisional statement);
- b) Non-conversion, new gambling premises licence applications;
- c) Provisional statements;
- d) Annual licence fees;
- e) Applications for variation of an existing premises licence;
- f) Applications for transfer a premises licence; and
- g) Application for re-instatement of a premises licence.

Restrictions on levels of fees and charges that may be set

10. As noted by this report, the Regulations provide for fees for premises licences to be set by the local licensing authority but subject to those fees not exceeding the permitted stated maxima.

11. Fees may be set at a level that recovers the costs of providing the service but should not look to recoup start-up costs. The Department of Culture Media and Sport (DCMS) has stated that an (unspecified) amount was included in each local authorities Revenue Support Grant for this purpose. While fees may be set at a level which recovers the costs of providing the service it should be noted that these costs do not include the costs incurred by other sections of the Council acting as responsible authorities under the Act.

12. The Regulations have established a position whereby each gambling operator will be required to pay an application fee upon application for conversion of their existing licences during transition and an additional annual fee which becomes due one month after their granted licence becomes effective. In year one this means that most established operators will be asked to pay to convert their licences in the period between 21 May 2007 and 30 July 2007 and then pay the annual fee on 1 October 2007. On this basis the fee for the conversion or new applications should look to recover the cost of administering the applications process and the annual fee the cost of providing other aspects of the service thereafter (i.e. inspection and enforcement activities, ongoing advice, support and education, review of guidance and 1st year fees etc).

13. As Philip Kolvin MA (Oxon) Barrister and Chair of the Institute of Licensing's book on "Gambling for Local Authorities" explains

"These Regulations are being treated by the DCMS as a test case, in that they set maximum fees but permit licensing authorities discretion to set fees within the maxima. This implies a degree of trust in local authorities to set fees at a proper level having regard to local circumstances, rather than blindly pumping for the maximum. There are a number of constraints preventing the latter response. First S212(2)(d) of the Act requires an authority in setting fees to aim to ensure that the income from fees of that kind as nearly as possible equates to the costs of providing the service to which the fee relates, including a reasonable share of expenditure which is referable only partly or indirectly to the provision of the service. Second, the Regulatory Impact Assessment for the Regulations counsels authorities that they will need to abide by internal audit and scrutiny procedures for financial probity, monitor their activities in line with best value legislation, submit to best value scrutiny by the Audit Commission and observe the Best Value Accounting Code of Practice. Third the DCMS intends to collate and publish fees set by each licensing authority in the first year, while carrying out a series of case studies of each type of premises and each region, before considering whether the maxima need to be adjusted from April 2008. Authorities who charge more than they need do not only risk public exposure – they risk contributing to the curtailment or removal of the discretion in years to come."

14. Similarly, DCMS and LACORs have written jointly to all local authority chief executives emphasizing that it is not expected that many councils will need to set fees at or near the maximum; and that authorities should be aware that the gambling industry is apprehensive about how the new licensing regime will work in practice and, particularly, that it is concerned that it will face unjustifiable costs.

Method of calculation of fees

15. On this basis, exercises have been carried out within the Licensing Service which have aimed to examine the costs of the various premises licence applications processes, by identifying the steps of the processes, the level of staff that are likely to undertake the various stages of process and the time likely to be taken to complete each task. These calculations have been made in the light of what are anticipated to be the similar experiences of the implementation of the Licensing Act 2003. With the exception of application fees related to the various casino licences, application fees have been proposed on the basis of these calculations with a 20% contingency added to cover additional and unforeseen work outside of the anticipated process.
16. In the case of the various casino licence fees the full maximum fee level has been proposed. This is on the basis that Southwark currently has no licensed casinos and this Authority has not undertaken any work to examine the reaction of the Southwark community to the potential establishment of a casino operation within its area. While this Authority did not put itself forward for consideration in the Government's bidding process to be awarded one of the initial 17 new casino licences, the uncertainty as to the position of casino licensing nationally at the time of writing of this report has led to the proposal that casino licence fees be set at the maximum as the public reaction to a potential future application and the work required to deal with such an application is unquantifiable at this time.

17. Similarly, it is very difficult to quantify the work that will be generated by the gambling premises licensing responsibility after the initial conversion and new applications have been determined. As noted earlier it is recognised that work will be required to be carried out in the first year to provide an early review of the Council's Gambling Licensing Policy which was necessarily approved in November 2006 prior to the release of the numerous final Regulations and Codes. It will also be necessary to record all costs incurred dealing with gambling licensing activities and conduct a full review of these fees and charges at the end of the financial year. All premises will need to receive full inspections and report back and there will be a requirement for business operators, in particular, to receive ongoing advice, support and education. There will also be associated enforcement activities. To this end, the first year annual fees have been set so as to allow for the employment of a Hay 11 officer on a one-year short-term contract with administrative and legal support and a small support budget. As it is recognised that some element of the officer's time will be devoted to ongoing applications that are received after transition and that these applications carry their own charges, only 70% of the proposed Hay 11 officer's time has been used in these calculations.
18. An overview of proposed fees and charges is given in Appendix A to this report. The calculations supporting the proposals are given in Appendices B to F (dealing with Adult Gaming Centres, Betting Offices, Bingo, Family Entertainment Centres and Tracks respectively).

Community Impact Statement

19. Fees and charges proposed by this report are intended to ensure that the general Southwark community does not carry any financial burden for the cost to this Authority for carrying out its new responsibilities under the Gambling Act 2005 but also intend that involved Southwark business operators pay such amounts that properly reflect the costs of the system.

Resource Implications

20. The proposed fees and charges are compiled with regard to the relevant regulations and advice from both central government and this service sector's regulatory body. Income to be generated from this new responsibility represents additional income to what was included in the budget for 2007-8 but the level of income receivable is difficult to estimate in the first year of operation. However, there will be an increase in the cost for administering the regulatory requirements for the applications. The additional post, estimated to be at a cost of £53,099, will be paid for out of the additional income. Any deficit will be contained within the overall budget of the division. Therefore, at present, there is no additional financial pressure in terms of the implementation of this legislation.
21. The level of fees as well as the total income and expenditure for this service will be reviewed as part of business planning process for 2008/09 financial year.

Consultation

22. No formal consultation was required in the preparation of this report.

SUPPLEMENTAL ADVICE FROM OTHER OFFICERS

Strategic Director of Legal & Democratic Services

23. The Council Assembly is asked to approve the proposed schedule of fees in accordance with powers conferred on licensing authorities to set premises licence application fees under Section 212 Gambling Act 2005 and The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 which come into force on 21 May 2007.
24. Paragraphs 10 - 14 of the report highlight matters to be taken into account when considering the proposed fee levels. Of paramount importance is the legal requirement contained in section 212 (d) of the Act which states that the fees should enable licensing authorities to recoup, as closely as possible, their actual costs for providing the services in respect of administering premises licences.

REASONS FOR URGENCY

25. Under the Act existing operators have between 21 May 2007 and 31 July 2007 only to apply to the Licensing Service to convert their current licences and consents into the new system and secure continuation rights beyond 1 September 2007. Because of this limited time period it is crucial to operators that the licensing authority is in a position to advise upon and receive conversion applications as soon as possible. Although Section 13 of the Interpretation Act 1978 provides for a decision to have been taken on fees and charges in advance of the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 coming into force on 21 May 2007 the very recent Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2007 establish that functions relating to the determination of fees for premises licences are not matters which may be the responsibility of an authority's executive. This matter is therefore necessarily put to the first available meeting of the Assembly for determination.

REASONS FOR LATENESS

26. The Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2007 were made on 23 April 2007 and laid before parliament on 30 April 2007 without prior notification. This late development has resulted in this report being submitted for consideration to the Assembly as both an urgent and late item.

BACKGROUND DOCUMENTS

Background papers	Held at	Contact
The Gambling Act 2005	The Chaplin Centre, Thurlow Street, London, SE17 2DG	Richard Parkins, Health, Safety & Licensing Manager
The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007	The Chaplin Centre, Thurlow Street, London, SE17 2DG	Richard Parkins, Health, Safety & Licensing Manager
Gambling for Local Authorities (Philip Kolvin)	The Chaplin Centre, Thurlow Street, London, SE17 2DG	Richard Parkins, Health, Safety & Licensing Manager

APPENDICES

Appendix	Title
A	Overview of proposed fees and charges
B	Adult Gaming Centres
C	Betting Offices
D	Bingo
E	Family Entertainment Centres
F	Tracks

AUDIT TRAIL

Lead Officer	Jonathon Toy, Head of Community safety and Enforcement	
Report Author	Richard Parkins. Health, Safety & Licensing Manager	
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Consultation with other Officers / Directorates		
Officer Title	Comments sought	Comments included
Strategic Director of Legal and Democratic Services	Yes	Yes
Finance Director	Yes	Yes
Executive Member	Yes	
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