

# REPORT TO THE EXECUTIVE

ANNEX A

Report No. 9

<b>Date of Meeting</b>	<b>19<sup>th</sup> April 2007</b>
<b>Title of Report</b>	<b>The Gambling Act 2005 (Premises Licence Fees 2007 and Scheme of Delegation)</b>
<b>Portfolio</b>	<b>Leader's Responsibilities</b>
Link to Corporate Priorities	Although this is a statutory requirement it does link to the Community Priority: To promote vibrant, safe and inclusive communities
Key Decision	No
Executive Workplan Ref	N/A
Public Report	Yes

## Summary of Report

This report proposes: -

- 1) The level of fees to be set in relation to the Gambling Act 2005.
- 2) That in the future the setting of Gambling Act Fees be delegated to the Licensing Committee.
- 3) That the Executive adopt a scheme of delegation as set out in the report at Appendix 4 to ensure that all provisions of the Gambling Act 2005 can be implemented.
- 4) The Environmental Health Team leader be appointed as an authorised person under the Gambling Act 2005 and be given the authority to designate other officers.
- 5) Delegated authority be given to the Environmental Health Team Leader to implement and enforce the provisions of the Gambling Act 2005, and authorise prosecutions for offences under the Act, as listed in Appendix 5, in consultation with the Legal Services Team Leader.

## Officer Recommendations

See overleaf

Other than those implications agreed with the relevant Officers and referred to below, there are no other implications associated with this report.

Financial Implications

Legal Implications

Community &  
Environmental Implications

Human Resources Implications

Equality & Diversity Implications

Yes

Yes

Yes

None

None

**Contact Officer**

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## **Officer Recommendations**

**It is recommended that:-**

- i) The level of fees as detailed in Appendix 1 be adopted to take effect from the 21<sup>st</sup> May 2007.**
- ii) The setting of Licensing Fees in future be delegated to the Licensing Committee.**
- iii) The Scheme of Delegation as detailed in Appendix 4 be adopted.**
- iv) 
  - a) The Environmental Health Team Leader be appointed as an authorised person under the Gambling Act 2005.**
  - b) The Environmental Health Team Leader be given the authority to designate other Officers as authorised persons under the Gambling Act 2005.**
  - c) The Environmental Health Team Leader be authorised to exercise all inspections and enforcement powers granted to the Council as Licensing Authority in relation to the Gambling Act 2005 or Regulations made thereunder and to authorise other officers to exercise those powers; and**
  - d) The Environmental Health Team Leader be authorised to instigate prosecutions under the Gambling Act 2005 in consultation with the Legal Services Team Leader as listed in Appendix 5.****

## **1. Introduction**

- 1.1 At the meeting on the 5<sup>th</sup> December 2006, Council approved the Statement of Principles in relation the Gambling Act 2005. The maximum fees could not be set at that time because the Regulations had not been approved.
- 1.2 The Gambling Act 2005 establishes a new system for the regulation of all gambling in Great Britain, other than the National Lottery and spread betting. It repeals the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976. It provides for local authorities in England and Wales, together called “licensing authorities” in the Act, to licence premises within their areas which are used to provide facilities for commercial gambling. Such premises are: -
- Casinos
  - Bingo Premises
  - Betting Premises
  - Family Entertainment Centres
  - Adult Gaming Centres
- 1.3 The Act contains three licensing objectives that underpin the functions that the Gambling Commission and Licensing Authorities will perform. They are:-
- Preventing gambling from being a source of crime or disorder; being associated with crime or disorder, or being used to support crime.
  - Ensuring that gambling is conducted in a fair and open way.
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.4 The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007, which come into force on 21<sup>st</sup> May 2007 (first appointed day), require that fees in relation to applications for licences under the Act, be set by the relevant Licensing Authority.

The levels of these fees are subject to maximums that are detailed at Appendix 1. They must be based upon cost recovery only and may not be used to raise revenue beyond reasonable costs nor to deter or encourage the provision of gambling premises.

## **2. Options and Options Appraisal**

- 2.1 The Executive is obliged to set the level of fees, options are :-
- i) To set the fee level as proposed by Officers.
  - ii) To set an alternative level of fees.
- 2.2 The Executive is asked to adopt the scheme of delegation at Appendix 4. Options are: -
- i) To adopt the scheme of delegation as detailed in Appendix 4.

Or

ii) Not to adopt the scheme of delegation as detailed in Appendix 4.

Or

iii) To adopt an alternative scheme of delegation.

2.3 The Executive is asked to authorise the Environmental Health Team Leader to instigate prosecutions under the Gambling Act 2005 in consultation with the Legal Services Team Leader as listed in Appendix 5.

Options are:-

i) To authorise the Environmental Health Team Leader to instigate prosecutions under the Gambling Act 2005 for the offences set out in Appendix 5 in consultation with the Legal Services Team Leader.

Or

ii) Not to authorise the Environmental Health Team Leader to instigate prosecutions under the Gambling Act 2005 for the offences set out in Appendix 5, in consultation with the Legal Services Team Leader.

Or To adopt an alternative scheme of authorisation.

### **3. Background Information**

3.1 North Wiltshire currently has the following licensable gambling premises:-

- 1 x Bingo Premises
- 12 x Betting Premises
- 1 x Adult Gaming Centre
- 2 x Family Entertainment Centres

3.2 No information is available in respect of prospective applications for new gambling premises, however, it is known that North Wiltshire has not been selected to have any casinos at this time.

3.3 It is proposed that fees in respect of Casino's and other licensable premises, that are not currently operating within North Wiltshire, be set at the maximum allowed. This will allow the greatest flexibility, particularly in terms of ongoing administration, inspection and enforcement action which is currently difficult to quantify.

3.4 It is proposed that fees in relation to the types of gambling premises that are already operating in North Wiltshire be set as detailed at Appendix 1. These fees are significantly lower than the maximum fees allowed and reflect the estimated costs as detailed at Appendix 3.

3.5 It should be noted that enforcement at Betting Premises and Bingo Halls is not currently undertaken by the Council. Fees have been calculated based upon an average of £40.00 per hour, inclusive of direct and indirect costs recommended by the Section 151 officer (see Appendix 3).

- 3.6 The fees proposed in respect of Adult Gaming Centres and particularly Family Entertainment Centres are higher than current levels which at present do not cover costs.
- 3.7 The fees proposed in respect of Betting Premises are higher than the current levels. Fees are currently paid to the courts and would not cover costs.
- 3.8 The fees proposed in respect of Bingo Halls are higher than current levels. Fees are currently paid to the courts and would not cover costs.
- 3.9 Fees for the Gambling Act 2005, unlike those for the Licensing Act 2003, are paid in advance. If a premises licence is surrendered during the year then an appropriate proportion for the remainder of the year after surrender must be refunded. (Gambling Act 2005 Section 184 refers).
- 3.10 It is proposed that the 1<sup>st</sup> Annual Fee for new applications be discounted by 25% to reflect the work already undertaken in the administration of the initial application.
- 3.11 Types of premises to be licensed are:-
- New Regional Casinos
  - New Large Casinos
  - New Small Casinos
  - Existing Casinos
  - Bingo Premises
  - Adult Gaming Centres
  - Family Entertainment Centres
  - Betting Offices
  - Tracks
- 3.12 **Annual Fee** (Where the licence comes into effect on the date of issue the annual fee must be paid *within 30 days*. Where the licence becomes effective after the issue date the fee must be paid *within 30 days of the effective date or 12 months whichever is sooner*).

Explanatory Memorandum to the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 No 479 para2.10 states

*“Annual fees will also be paid to cover the cost of ongoing administration, inspection and enforcement activity required under the new licensing regime. This fee will include direct costs and indirect costs, including a full proportional share of overhead costs, insurance, depreciation and cost of capital charge. “*

Explanatory Memorandum to the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 No 479 para2.11 states

“For the licensing authority this means that the service should be cost neutral. In determining application, annual and other fees licensing authorities must ensure that these are limited to recovery of the costs of carrying out their functions under the Act. Licensing Authorities will be required to review their fees annually to ensure that the income from the premises licences 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 their relevant functions.”

### 3.13 **Scheme of Delegation**

In order for the provisions of the Gambling Act 2005 to be effectively implemented it is recommended that the scheme of delegation as set out the Secretary of States' Guidance as detailed in Appendix 4 be adopted. In addition the Act gives the Licensing Authority a number of powers to authorise persons to undertake certain functions including the power of entry to inspect premises and to take enforcement action. It is recommended that the Environmental Health Team Leader be designated as an authorised person for these purposes and to be authorised to designate other Officers as appropriate.

- 3.14 The Act creates a number of offences in which the Licensing Authority may institute legal proceedings. These are listed in Appendix 5. It is proposed that these powers be delegated to the Environmental Health Team Leader after consultation with the Legal Services Team Leader.

## 4. **Financial Implications**

- 4.1 If the fees as proposed are adopted this will result in an income of £6400 which is anticipated will cover costs only.

## 5. **Legal Implications**

- 5.1 DCMS will publish and compare agreed fees and will follow up major inconsistencies between 'like' Councils.
- 5.2 Fees that do not adhere to the principle of cost recovery will be vulnerable to legal challenge.

## 6. **Human Resources/Equal Opportunity Implications**

- 6.1 The anticipated workload of the Gambling Act 2005 can be met within the existing resources of the Licensing Section of the Environmental Health Team and there are, therefore, no expected Human Resource or Equal Opportunity implications.

## 7. **Community and Environmental Implications**

- 7.1 The implications of this report are likely to have an effect on resident and businesses throughout the North Wiltshire area.

## 8. **Risk Analysis**

- 8.1 Whilst there is not a specified date by which fees must be set, they need to be published sufficiently in advance of the First Appointed Day, 21<sup>st</sup> May 2007, to allow applications to be made. The Council is required to set and publish the levels of fees. Failure to do so would leave the Council open to legal challenge.

<b>Appendices:</b>	<ul style="list-style-type: none"><li>• <b>Appendix 1 - Schedule of Maximum Fees</b></li><li>• <b>Appendix 2 - Current Fees Table</b></li><li>• <b>Appendix 3 – Projected Minimum Income</b></li><li>• <b>Appendix 4 – Scheme of delegation</b></li><li>• <b>Appendix 5 - Prosecutions</b></li></ul>
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<p><b>Background Documents Used in the Preparation of this Report:</b></p>	<ul style="list-style-type: none"> <li>• The Gambling Act 2005</li> <li>• Gambling (Premises Licence Fees) (England and Wales) Regulations 2007</li> <li>• Explanatory Memorandum to the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 No 479</li> <li>• The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007</li> <li>• Gambling Act 2005: Premises Licences Permit fees: Consultation</li> <li>• Gambling Commission Guidance to Licensing Authorities – April 2006</li> <li>• Explanatory Memorandum to the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 No. 459</li> <li>• NWDC Statement of principles</li> <li>• Lacors - NewsArticle Details – Fees Regulations</li> <li>• Lacors – Subject Content Details – Fees – Power to Set and Categories of Fee dated 14/03/2007</li> </ul>
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**Previous Decisions Connected with this Report**

Report	Committee & Date	Minute Reference
<p><b>Gambling Act 2005 – Statement Of Principles</b></p>	<p>Council 5.12.06</p>	