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| REPORT TO: | LICENSING COMMITTEE 27 APRIL 2017 |
| AGENDA ITEM: | 8 |
| SUBJECT: | THE GAMBLING ACT 2005 (S.212) – Setting of Premises Licence Fees |
| LEAD OFFICER: | EXECUTIVE DIRECTOR, PLACE DEPARTMENT |
| CABINET MEMBER: | Cllr. Hamida Ali, Cabinet Member for Communities, Safety & Justice |
| WARDS: | ALL |
| CORPORATE PRIORITY/POLICY CONTEXT: | |
| The setting of fees under the Gambling Act 2005 is a statutory requirement. | |
| FINANCIAL SUMMARY: | |
| The Council is the Licensing Authority under the Gambling Act 2005 (the ‘Act’). | |
| Premises Licence fee maxima have been set by central Government and these are detailed in regulations. Within those fee maxima, local authorities may set relevant premises licence fees, based on the principle of cost recovery. | |
| Croydon Council currently licences 2 Adult Gaming Centres, 3 Bingo Halls and 68 Betting Shops. | |
| In 2016/17, the Council received income of £35,248 from premises licence application fees and annual fees. If the new premises licence fees outlined in Appendix Two to this report are adopted, it is estimated that the total income for 2017/18 will be £43,508. | |
| FORWARD PLAN KEY DECISION REFERENCE NO.: | |

For general release

1. RECOMMENDATIONS

1.1 The Committee is asked to note the existing fee structure shown at Appendix One to this report and is recommended to adopt the new fee structure shown at Appendix Two to this report. The new fee structure has been determined on the principle of cost recovery.

2. EXECUTIVE SUMMARY

- 2.1 The Gambling Act 2005 came into force on 1st September 2007. Local authorities are only responsible for licensing the premises on which gambling takes place. They are not responsible for licensing gambling operators, as this function falls to the Gambling Commission, the national regulator.
- 2.2 Croydon Council currently licences 2 Adult Gaming Centres (amusement centres), 3 Bingo Halls and 68 Betting Shops.
- 2.3 The Council administers the licensing process under the Act and undertakes inspections of premises and ensures compliance with licence terms & conditions.

3. DETAIL

- 3.1 The Gambling Act 2005 came into force on 1 September 2007. It created a unified regulator for gambling in Great Britain called the Gambling Commission, as well as establishing a new licensing regime for commercial gambling. The Gambling Commission regulates all commercial gambling in Great Britain, except the National Lottery and Spread Betting and issues operating and personal licences.
- 3.2 The Gambling Act 2005 transferred all responsibility for licensing gambling premises from Licensing Justices to Licensing Authorities (the Local Authority in England and Wales). Licensing Authorities are also responsible for a number of different permits, as well as temporary and occasional use notices.
- 3.3 Local Authorities acting as Licensing Authorities now issue premises licences for the following activities:
 - bingo
 - betting premises (ie. betting shops and betting tracks)
 - adult gaming centres
 - licensed family entertainment centres
 - casinos
- 3.4 They issue permits for:
 - Gaming machines in alcohol licensed premises, such as pubs
 - Gaming machines for members clubs
 - Other gaming activities in Members' clubs
 - Category D machines* in unlicensed family entertainment centres
 - Prize gaming.
- 3.5 They also register and issue:
 - Small society lotteries
 - Occasional and temporary use notices
 - Provisional statements.

*Category D machines are those that can be used by children and have the lowest level of stakes and prizes

3.6 The Gambling Act 2005 contains three licensing objectives that underpin the legislation:

- I. Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime.
- II. Ensuring that gambling is conducted in a fair and open way.
- III. Protecting children and other vulnerable people from being harmed or exploited by gambling.

III.7 Local authorities are required to set premises licence application fees, annual fees and associated fees for the following categories of premises:

- Betting shops
- Bingo halls
- Adult gaming centres
- Licensed family entertainment centres
- Betting tracks
- Casinos (where applicable) and
- Provisional statements

III.8 Fee maxima have been set for each type of premises by the Government. Local authorities then have discretion to set appropriate fees, based on the principle of cost recovery, so long as the fee maxima are not exceeded. The power to set fees under the Act rests with the full Council but the function can be delegated to the licensing committee or officers. The function has been delegated to the Licensing Committee (Minute A28/07 refers).

III.9 Attached at Appendix 1 are the current premises licence fees and associated fees for this authority. Attached at Appendix 2 are the proposed new fees that the committee is asked to adopt, also showing the fee maxima. The rationale for the fees set is outlined from paragraph 3.10 onward, below.

III.10 An hourly rate of £99.05 was arrived at following consideration of all relevant costs. The application process has then been broken down into a series of tasks and the hourly rate was then multiplied by the amount of time, in minutes, that it was considered the individual tasks would take to complete, based on the Council's experience of administering the Act. These figures were then added together to give an appropriate fee.

III.11 With regard to new applications, fees have been set on the assumption that an application for a premises licence will go before the Council's Licensing Sub Committee for a decision, following representations. Previous new premises licence applications have drawn relevant representations and required a hearing by the licensing sub-committee.

III.12 Attached at Appendix 3a is a list of 19 tasks, from dealing with an initial enquiry (task one) to the conclusion of a licensing sub committee hearing (task nineteen). These are the tasks that are involved in a new application that goes before the sub committee. It is considered that these costs will be the same, whatever the type of premises licence being applied for, because it is the administrative processes that are being costed. Where there are no

representations on an application, it is proposed that the cumulative cost of tasks 1 to 11 and tasks 16, 18 & 19 will be the fee. Where there are representations, the fee will be the cumulative cost of tasks 1 to 19.

III.13 Therefore, as an example, the proposed fee for a new betting shop premises licence application going before the sub committee is assumed to be £2616 (tasks 1 to 19). The maximum fee that the Licensing Authority may set for a new Betting (Other) Premises Licence (a betting shop) is £3000.

III.14 Once the new application fee was decided, assumptions have then been made on the other applications that may be made relating to an established licence to work out appropriate fees. For example, an application may be made to vary the terms of an existing licence. Representations may be made on such an application by responsible authorities and interested parties and it may therefore go before the licensing sub committee. However, it is considered that there is slightly less likelihood of representations being made on a variation application than a new application, therefore the fee is slightly reduced. Similarly, only certain responsible authorities and not interested parties may make representations on an application to transfer a premises licence, therefore the transfer fee is further reduced from that of a variation application etc.

III.15 Similarly, the proposed premises licence annual fees have been worked out using a set of tasks that are involved in the annual administration of the premises licences. Attached at Appendix 3b is a list of 10 tasks, from the collecting and processing of annual fees to the addition of a share of the anticipated cost of reviewing the Council's statutory 3 year Statement of Principles. Again, by way of an example, Appendix 3b gives worked examples for the setting of a betting shop annual fee.

3.16 A copy of the fees regulations is attached at Appendix 4 to this report.

4. Processing Applications – Premises Licences

4.1 A Licensing Authority should aim to permit the use of premises for gambling if it believes that the application is:

- In accordance with any relevant Guidance or Codes of Practice issued by the Gambling Commission.
- Reasonably consistent with the licensing objectives.
- In accordance with the Authority's Statement of Principles (Gambling Policy).

4.2 When an application for a premises licence is being made, representations from external parties may be made about the application. The Licensing Authority will consider all relevant representations, as well as other factors, before making a final decision.

4.3 Only representations made by a *Responsible Authority* or *Interested Party* will be considered and they must be relevant. The definitions of these two categories differ from those included in the Licensing Act 2003.

4.4 A Responsible Authority must be notified by the applicant when an application for a premises licence is being made. A Responsible Authority is a public body which can make a representation in relation to the application, as well as to an existing licence. They are:

- The Licensing Authority
- The Gambling Commission
- The Police
- The Fire Brigade
- The Planning Department
- The Council's Pollution Team
- Croydon Children's Safeguarding Board (social services)
- HM Revenue and Customs.
- Navigation Authorities (Environment Agency, British Waterways Board, Maritime and Coastguard Agency) and the Secretary of State (for vessels only).

4.5 An Interested Party is a person who:

- Lives sufficiently close to the premises to be affected by the authorised activities.
- Has business interests that might be affected by the authorised activities.
- Represents people in either of the above groups (eg lawyer, accountant, councillor, community association, chamber of commerce etc.).

4.6 A premises licence, once issued, will be set for an unlimited duration but the Licensing Authority does have the power to review and revoke it any time, and it may be surrendered or lapse due to the death or bankruptcy/insolvency of the holder.

5. POLICE COMMENTS

5.1 As this report relates to local authority fee setting, comments have not been sought from the Croydon Police licensing officer regarding this matter.

6. APPEALS

6.1 There are no direct appeal provisions within the legislation with regard to fee setting. However, the local authority must only set fees that cover administrative and other reasonable costs and an aggrieved party may seek judicial review if they believe the fees set are excessive. Judicial review proceedings present financial and reputational risk to the Council.

7. CONSULTATION

7.1 There are no statutory consultation or advertisement requirements with regard to fee setting under the Gambling Act 2005.

8. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

8.1 The Council is entitled to calculate fees that will generate income to offset the estimated cost to the Council of providing the service. The estimated income from the proposed fee structure will offset the cost of the service which is calculated via a standard hourly rate (that recovers all relevant service expenditure).

Approved by: Luke Chiverton, Interim Head of Finance, Place and Resources

9. COMMENTS OF THE COUNCIL SOLICITOR

9.1 The Solicitor to the Council comments that the setting of fees associated with the Gambling Act 2005 is determined by regulations and statutory guidance made under the Act.

(Approved for and on behalf of Jacqueline Harris-Baker, Director of Law, Council Solicitor and Monitoring Officer.)

10. HUMAN RESOURCES IMPACT

10.1 There are no perceived human resources implications associated with this report.

10.2 (Approved by: Jason Singh Head of HR Employee Relations on behalf of the Director of HR)

11. CUSTOMER IMPACT

11.1 The Gambling Act 2005 impacts on existing and potential licence holders. Well managed licensed premises attract customers and contribute to a vibrant local economy.

12. EQUALITIES IMPACT ASSESSMENT (EIA)

12.1 This report does not require a separate Equality Impact Assessment.

13. ENVIRONMENTAL AND DESIGN IMPACT

13.1 The licensed gambling premises in Croydon are not considered to adversely impact on the local environment.

14. CRIME AND DISORDER REDUCTION IMPACT

14.1 There are not considered to be any local crime and disorder implications associated with this report.

15. HUMAN RIGHTS IMPACT

15.1 Article 1 of the First Protocol provides a right to peaceful enjoyment of possessions. Both a person's business and an existing licence are a

possession and cannot be taken away or interfered with unless the law allows it and the action is justified.

Further, when determining applications under the Gambling Act 2005, it is necessary to ensure that, as far as possible, the Council's procedures are compliant with the principles in Article 6 of the Convention – the right to a fair trial.

16. FREEDOM OF INFORMATION/DATA PROTECTION CONSIDERATIONS

16.1 Information that is provided to or held by the Council in relation to applications must only be processed and disclosed strictly in accordance with the Freedom of Information Act and Data Protection Act 1998 and other appropriate legislation.

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APPENDICES 1-3b: Premises Licence and Associated Fees

BACKGROUND DOCUMENTS: The Gambling (Premises Licence Fees) (England & Wales) Regulations 2007 (No.479)