



LICENSING AND GAMBLING COMMITTEE – 20TH JUNE 2019

**SUBJECT: LICENSING & GAMBLING /REGISTRATION/PERMIT FEES - 2019/20,
AND AMENDMENT OF LICENSING & GAMBLING SUB COMMITTEE
HEARING PROCEDURE**

REPORT BY: INTERIM CORPORATE DIRECTOR, COMMUNITIES

1. PURPOSE OF REPORT

- 1.1 To recommend Licensing/Registration/Permit Fees under the Gambling Act 2005 for the next financial year and inform the committee of fees set centrally under the Licensing Act 2003.
- 1.2 To amend the Hearing Procedure in respect of matters to be heard by the Licensing & Gambling Sub Committee.

2. SUMMARY

All locally set Licensing fees are reviewed annually to recover reasonable costs of providing the service. Council on 5th June 2018 determined that in future years the decisions in respect of such fees will be made by the relevant Licensing Committee without further reference to full Council.

- 2.1 This report recommends amendments to Gambling fees and advises Members of the fee structure established by the Government under the Licensing Act 2003.
- 2.2 In October 2018, Members approved a number of minor amendments to the Committee Hearing Procedures in respect both Licensing and Gambling and Taxi & General Sub Committees following a review. This report seeks one further amendment to the hearing procedure relating to 'speaker' order.

3. RECOMMENDATIONS

- 3.1 That the Committee:-
 - a) Consider and approve the level of fees proposed under the Gambling Act 2005 for 2019/20 as outlined in **Appendix 1** and for Temporary Use Notices in **Appendix 2**.
 - b) Note the level of fees charged in connection with the Licensing Act 2003 as set out in **Appendix 3** and for the majority of Gambling Permits and associated charges in **Appendix 2**.
 - c) Approve the amendment to the Sub Committee Hearings procedure relevant to Licensing & Gambling Sub Committee attached as **Appendix 4**.

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 To recover a reasonable level of costs incurred by the Council in administering the licensing service.
- 4.2 To ensure that procedures and processes for Licensing and Gambling Sub Committee Hearings comply with current legislation, guidance and best practice.

5. THE REPORT

- 5.1 The authority has a statutory duty to administer certain licences, registrations and permits. The review of fees charged, involves consideration of the cost to the Authority in providing the service. Some fees are set centrally by government e.g. alcohol licences, some permits such as street collections for charities etc are free of charge and the remaining we can determine locally in order to recover the cost of providing that particular service e.g. the majority of Gambling fees.
- 5.2 There have been a number of important cases before the High Court regarding the setting of licensing fees and the Local Government Association (LGA) have issued guidance to local authorities, the latest in November 2015. The underlying principle in setting fees is that Councils must not use fees to make a profit or act as an economic deterrent to deter certain business types from operating in an area. Charges must be reasonable and proportionate to the cost of the processes associated with the licensing regime.
- 5.3 The all Wales Licensing Expert Panel devised a fee calculator toolkit that has been approved by the Directors of Public Protection in Wales. In principle the toolkit calculates two elements, which cover the costs to the authority for the provision of the service and the cost of processing and producing a licence. The cost of provision of the service increases proportionally dependant on the period of the licence, whereas the licence processing cost is not affected by the period of the licence. A separate toolkit has been developed for the majority of licences issued and these have been used to review and set fees for 2019/20.

The toolkit spreadsheet comprises a number of worksheets covering several factors relevant to the calculation of fees as follows:

- Cost summary – calculates the hourly rate chargeable for each officer based on the Council's agreed annual productive hours.
 - Other charges –
 - (i) Total charges for time based on functions associated with the service provision.
 - (ii) Total specific costs including surplus or deficits in provision of service, costs of changes/amendments to licences
 - (iii) Relevant applications, based on the number of renewal and new licences issued at the time of calculation.
- 5.4 **Gambling Act 2005** – Whilst the Government sets maximum fee levels relating to premises licences such as bingo halls, betting shops, etc., the Authority has the discretion to set fees at a level considered appropriate to cover costs. There has been little change in respect of licence numbers / types throughout 2018/2019. However, there was a significant amount of policy related work undertaken in respect of preparation and formulation of the Authority's revised Gambling Policy which was published in January 2019. A review of Gambling Fees indicates that the current fees require amending for 2019/2020.

It is proposed therefore to increase Gambling Act fees in line with that set out in **Appendix1**.

Essentially new applications, variations and transfers for Betting Shops, Adult Gaming Centres, Family Entertainment Centres and Bingo Clubs will increase from £680 to £702 and the annual fees for these premises from £405 to £430. In respect of Tracks, the application and variation fee will remain at £900, however the annual fee will increase from £564 to £582. The Authority currently licence 31 premises under the Gambling Act 2005 consisting of 1 track, 1 bingo hall, 22 betting premises and 7 adult gaming centres who will be required to pay an annual fee.

- 5.5 Fees for Permits and other charges are attached as **Appendix 2**. The majority of these are set centrally by Government. The only exception is the fee for Temporary Use Notices (TUNs). The report recommends that this fee remains at the existing level.
- 5.6 **Licensing Act 2003** fees are set by the Government and have remained static since 2005. The Government has indicated that potentially centrally-set fees may be moved to locally-set fees and whilst the Government was working with the LGA to assess an appropriate fee structure, there is no further information as to when any review of fees will take place. Until such changes are implemented, applications and annual fees must continue to be charged at the current fee level. The fees charged in connection with the Licensing Act 2003 are attached for information only as **Appendix 3**.
- 5.7 **Amendment to Licensing & Gambling Sub Committee Hearing Procedure** - A minor amendment to the 'speaker' order of the procedure is recommended to enable the applicant to state their application to Members after a brief overview by the Licensing officer and prior to comments by Responsible Authorities and Interested Parties.

Currently the Responsible Authorities and Interested Parties make their comments before the applicant has had an opportunity to make their case. It is believed that this change would better assist Members in providing them with information that the applicant is best placed to provide.

- 5.8 The Hearing procedure attached as **Appendix 4** would replace the existing procedure attached as **Appendix 5**, subject to Member approval.

5.9 **Conclusion**

The Authority is required to review its Licensing fees on an annual basis and has a duty to recover fees that are proportionate to the level of cost incurred in administering the licensing service. The proposed change to the Hearing procedure would improve the information available to Members at a more appropriate time during the hearing.

6. **ASSUMPTIONS**

- 6.1 No assumptions have been made in the preparation of this report.

7. **LINKS TO RELEVANT COUNCIL POLICIES**

- 7.1 Statement of Licensing Policy under the Licensing Act 2003 and Statement of Gambling Policy under the Gambling Act 2005.

7.2 **Corporate Plan 2018-2023.**

The aim of licensing is generally public safety and protection and to ensure a fair and level market place for licensable activities.

The report impacts on the following Corporate Well-being Objectives, which are:

8. WELL-BEING OF FUTURE GENERATIONS

- 8.1 The Authority has a duty to improve the social, economic, environmental and cultural well-being of Wales. The areas covered in this report contribute to the following Well-being Goals

They are consistent with the five ways of working as defined within the sustainable development principle in the Act and support the objectives of other stakeholders.

There is an emphasis on prevention as the licensing process ensures that a number of checks and safeguards are in place before a licence is granted. There is also involvement particularly through the consultation process for applications allowing other agencies and the community to input into the decision-making process. The prime focus for the Council is to ensure public safety and to provide an efficient and effective licensing service

9. EQUALITIES IMPLICATIONS

- 9.1 There are no potential equalities implications of this report and its recommendations on groups or individuals who fall under the category identified in Section 6 of the Council's Strategic Equality Plan. There is no requirement for an Equalities Impact Assessment Questionnaire to be completed for this report. The Council ensures that it treats all individuals who are renewing or making new applications for licenses, with equal respect in line with the Council's Strategic Equality Plan 2016 to 2020.

- 9.2 Reviewing and updating the hearing procedure will ensure that it is fit for purpose, increase transparency and openness for everyone involved and improve consistency of approach and fairness.

10. FINANCIAL IMPLICATIONS

- 10.1 The authority must balance the cost of providing the service with the impact any increases may have on businesses and the local economy. The Authority has a duty to rate payers to recover true costs and to manage its services efficiently. Any delay in implementing increases in the short term would increase the current gap between the cost of providing the service and income generated from Licensing Fees and result in even larger increases in future years.

- 10.2 As set out at 5.2 above recent rulings on fees and Local Government Association guidance clearly sets out that income from one licence type cannot support or fund other licence types, Councils cannot over-recover and fees must reflect the true cost of administration and the provision of the service. Following review of all locally set fees, the predicted income for the period 2019 to 2020 will be dependent on the aggregation of fees for different licence types. Alcohol fees are set by Central Government. It is proposed to increase Gambling fees, however given the number of licensed premises in the Borough, any income increases will be negligible and is dependent upon the number of applications received.

- 10.3 There are no financial implications in respect of amendments to the hearing procedure.

11. PERSONNEL IMPLICATIONS

- 11.1 There are no personnel implications

12. CONSULTATIONS

12.1 This report has been sent to the Consultees listed below

13. STATUTORY POWER

13.1 Local Government Act 1972; Licensing Act 2003, the Gambling Act 2005 and Regulations made under these Acts.

Author: Lee Morgan Licensing Manager morgal16@caerphilly.gov.uk

Consultees: Cllr Denver Preece Chair, Licensing and Gambling Committee
Cllr Julian Simmonds, Vice Chair, Licensing and Gambling Committee
Cllr Eluned Stenner, Cabinet Member for Environment and Public Protection.
Mark S. Williams, Interim Corporate Director Communities
Robert Hartshorn, Head of Public Protection, Community and Leisure Services
Robert Tranter, Head of Legal Services and Monitoring Officer
Jacqui Morgan, Trading Standards, Licensing and Registrars Manager
Mike Eedy, Finance Manager
James Williams, Senior Solicitor, Legal Services
Anwen Cullinane, Senior Policy Officer (Equalities and Welsh Language)
Shaun Watkins, HR Manager

Background [Open for business LGA guidance on Licensing fees Nov 2015](#)

Appendices:

Appendix 1 – Gambling Act 2005 – Proposed premises licence fees for 2019/20
Appendix 2 – Gambling Act 2005 – Permits and associated charges
Appendix 3 – Licensing Act 2003 – Main fees
Appendix 4 – Proposed amended Hearing Procedure
Appendix 5 – Existing Hearing Procedure

GAMBLING ACT 2005 – PREMISES LICENCE FEES 2019/20

Premises Type	New Application	Annual Fee	Application to Vary	Application to Transfer	Application for Re-Instatement	Application for Provisional Statement	Licence Application (Provisional Statement Holders)	Copy Licence Statutory Maximum	Notification of Change Statutory Maximum
Bingo Club proposed	£702	£430	£702	£702	£702	£702	£430	£25*	£50*
<i>Existing</i>	<i>£680</i>	<i>£405</i>	<i>£680</i>	<i>£680</i>	<i>£680</i>	<i>£680</i>	<i>£405</i>	<i>£25</i>	<i>£50</i>
Betting Premises (excluding Tracks) Proposed	£702	£430	£702	£702	£702	£702	£430	£25	£50
<i>Existing</i>	<i>£680</i>	<i>£405</i>	<i>£680</i>	<i>£680</i>	<i>£680</i>	<i>£680</i>	<i>£405</i>	<i>£25</i>	<i>£50</i>
Tracks proposed	£900	£582	£900	£582	£582	£900	£582	£25	£50
<i>Existing</i>	<i>£900</i>	<i>£564</i>	<i>£900</i>	<i>£564</i>	<i>£564</i>	<i>£900</i>	<i>£564</i>	<i>£25</i>	<i>£50</i>
Family Entertainment Centres Proposed	£702	£430	£702	£702	£702	£702	£430	£25	£50
<i>Existing</i>	<i>£680</i>	<i>£405</i>	<i>£680</i>	<i>£680</i>	<i>£680</i>	<i>£680</i>	<i>£405</i>	<i>£25</i>	<i>£50</i>
Adult Gaming Centre	£702	£430	£702	£702	£702	£702	£430	£25	£50
<i>Existing</i>	<i>£680</i>	<i>£405</i>	<i>£680</i>	<i>£680</i>	<i>£680</i>	<i>£680</i>	<i>£405</i>	<i>£25</i>	<i>£50</i>

PERMITS AND ASSOCIATED CHARGES 2019/20

Appendix 2

Permit Fees

	New Application	Renewal Fee	Change of Name £	Copy of Permit £	Variation £	Transfer £	Annual Fee £
Temporary Use Notice (set locally) Unchanged	398	N/A	N/A	25	N/A	N/A	N/A
Centrally Set Fees							
FEC Gaming Machine Permits*	300	300	25	15	N/A	N/A	N/A
Prize Gaming Permits*	300	300	25	15	N/A	N/A	N/A
(Alcohol) Licensed Premises Gaming Machine Permit*	150#	N/A	25	15	100	25	50
(Alcohol) Licensed Premises Notification Fee – (maximum 2 machines)*	50	N/A	N/A	N/A	N/A	N/A	N/A
Club Gaming Permit*	200##	200##	N/A	15	100	N/A	50
Club Machine Permit*	200##	200##	N/A	15	100	N/A	50

* **Statutory Fee set centrally**

Where applicant is an existing operator fee is £100.00

Where applicant is an existing Part 2 or Part 3 operator under the Gaming Act 1968 or the holder of a club premises certificate issued under the Licensing Act 2003, the fee is £100.00.

LICENSING ACT 2003 - set centrally by Government.

**MAIN FEES –
PREMISES LICENCE AND CLUB PREMISES CERTIFICATE**

BAND	A	B	C	D	E
NON DOMESTIC RATEABLE VALUE	None-£4,300	£4,301-£33,000	£33,001-£87,000	£87,001-£125,000	£125,001+
Premises Licence*					
NEW APPLICATION AND VARIATION	£100	£190	£315	£450	£635
MULTIPLIER APPLIED TO PREMISES USED EXCLUSIVELY OR PRIMARILY FOR THE SUPPLY OF ALCOHOL FOR CONSUMPTION ON THE PREMISES (BANDS D & E ONLY)	N/A	N/A	N/A	X2 (£900)	X3 (£1905)
ANNUAL CHARGE*	£70	£180	£295	£320	£350
ANNUAL CHARGE MULTIPLIER APPLIED TO PREMISES USED EXCLUSIVELY OR PRIMARILY FOR THE SUPPLY OF ALCOHOL FOR CONSUMPTION ON THE PREMISES (BANDS D & E ONLY)	N/A	N/A	N/A	X2 (£640)	X3 (£1050)
Club Premises Certificate					
NEW APPLICATION AND VARIATION	£100	£190	£315	£450	£635
ANNUAL CHARGE	£70	£180	£295	£320	£350

To locate the non-domestic rateable value of your premises, log into the Valuation Office's website, www.voa.gov.uk where there is a facility to enter the post code.

*There are additional fees for premises licence applications and annual fee, for exceptionally large-scale events (5,000 people+), unless certain conditions apply. Please read regulation 4(4) & 4(5) of The Licensing Act 2003 (Fees) Regulations 2005

Exemptions exist for certain premises such as church halls, community halls, schools and colleges and where the application relates to the provision of regulated entertainment only.

Additional Fees Applied to Premises Licence Application and the Annual Fee for Exceptionally Large Scale Events

Number in attendance at any one time	Additional fee payable	Annual fee payable if applicable
5,000 - 9,999	£1,000	£500
10,000 - 14,999	£2,000	£1,000
15,000 - 19,999	£4,000	£2,000
20,000 - 9,999	£8,000	£4,000
30,000 - 39,999	£16,000	£8,000
40,000 - 49,999	£24,000	£12,000
50,000 - 59,999	£32,000	£16,000
60,000 - 69,999	£40,000	£20,000
70,000 - 79,999	£48,000	£24,000
80,000 - 89,999	£56,000	£28,000
90,000 and over	£64,000	£32,000

Personal Licence, Temporary Event Notice and Other Fees

Application for a grant or renewal of personal licence	£37.00
Temporary event notice	£21.00
Theft loss, etc. of premises licence or summary	£10.50
Application for a provisional statement where premises being built, etc.	£315.00
Notification of change of name or address	£10.50
Application to vary licence to specify individual as premises supervisor	£23.00
Application for transfer of premises licence	£23.00
Interim authority notice following death, etc. of licence holder	£23.00
Theft, loss, etc. of certificate or summary	£10.50
Notification of change of name or alteration of rules club	£10.50
Change of relevant registered address of club	£10.50
Theft, loss etc. of temporary event notice	£10.50
Theft, loss etc. of personal licence	£10.50
Duty to notify change of name or address	£10.50
Right of freeholder etc. to be notified of licensing matters	£21.00
Application for a minor variation	£89.00
Application for the mandatory condition requiring a DPS to be dis-applied	£23.00

CAERPHILLY COUNTY BOROUGH COUNCIL**LICENSING AND GAMBLING SUB-COMMITTEE PROCEDURES****This Is a Committee Hearing and Not a Court Of Law*****Preliminary Matters***

1. Copies of all applications and representations will be supplied to the Members who are to form the Committee at the same time as the notice of hearing is issued.
2. Members should study the papers carefully and notify the Committee Clerk immediately of any potential conflict of interest and return the documentation as soon as possible to the Committee Section.
3. It is in the interests of applicants, other relevant persons and responsible authorities that any evidence upon which it is intended to rely is made available to the Licensing Authority well in advance of the hearing. If any party seeks to introduce at the hearing any oral or documentary evidence, which has not previously been disclosed, the Committee will only accept such evidence at their discretion.

Conduct of the Hearing

1. The Chair will start proceedings by introducing the Members and officers present. A final check will then be made to ensure none of the Members have any conflict of interest with any applicant, other relevant person, or supporting witness.
2. The Legal Advisor will then outline the procedure that will be followed at the Committee as that which has been previously circulated.
3. Members of the Committee would have read and familiarised themselves with the papers and the issues and should not therefore require points to be repeated at length.
4. It will be for the Members of the Committee, in conjunction with their legal advisor, to determine whether a particular representation is relevant.
5. The Licensing Officer representing the Licensing Authority will present his/her report. With the consent of the Committee, the Licensing Officer may be questioned.
6. The Applicant and/or his representatives may then address the Committee in support of the application. The Applicant may call witnesses with the consent of the Committee the Applicant may be questioned.
7. Each Responsible Authority should have submitted written responses on the application; they may however give further clarification and call witnesses. With the consent of the Committee the Responsible Authority may be questioned.
8. If any Other Persons are in attendance, they may wish to speak, to make relevant representations. It is therefore advisable that Other Persons work together to present a common case to the Committee. With the consent of the Committee the spokesperson may be questioned.

9. The Licensing Officer may sum up (no new information).
10. Representatives of the Responsible Authority may sum up (no new information).
11. A spokesperson for the Other Persons may sum up (no new information)
12. The Applicant may sum up the case, (no new information).

Determination of the Application

1. The Members will retire to make their decision. The Legal Advisor will accompany Members and advise them on points of law, policy and procedure that may arise during their deliberations. The Legal Advisor will then explain the substance and nature of advice that has been provided to all parties.
2. The parties will be informed that they will be notified of the Members' decision in accordance with the regulations i.e within 5 working days.

Evidence

1. Hearsay evidence is allowed, although the weight the Committee attaches to such evidence may be less, given that it cannot be tested in cross examination. For the same reason, the Committee may accept a petition, which amounts to the written views of the signatories, but again it is subject to the proviso that only limited weight can be attached to it, because the individual views will not have been tested before it.
2. Evidence offered by each Responsible Authority must be within their expertise.
3. Every application will be considered on its own merits.
4. If once in private, Members need clarification they may return to open session to obtain information, and then re-resolve to go into private session.

Legal Advisor

The Committee will rely on its legal adviser as to matters of law and procedure.

This may include, but is not limited to:-

1. Interpretation of the Licensing Act 2003
2. Statutory Guidance and Council Policy
3. Other statutory provisions creating legal duties, such as Section 17 of the Crime and Disorder Act 1998 (duty to do all it reasonably can to prevent crime and disorder) and the Human Rights Act 1998.
4. Admissibility of evidence.
5. The rules of procedure set out in the Regulations or arising because of general principles of administrative law.

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