



LICENSING AND GAMBLING COMMITTEE – 31ST MAY 2018

SUBJECT: LICENSING AND GAMBLING / REGISTRATION / PERMIT FEES – 2018/19

REPORT BY: INTERIM CORPORATE DIRECTOR OF 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. To seek the views of Members and to make recommendations to Council on them.
- 1.2 To ask Council to note that in accordance with the existing powers contained in the terms of reference for the Licencing and Gambling Committee in future years the decisions in respect of fees which are set locally will be made by the Licensing and Gambling Committee without further reference to Council.

2. SUMMARY

- 2.1 All locally set Licensing fees are reviewed annually to recover reasonable costs of providing the service. This report recommends amendments to Gambling fees where appropriate and advises Members of the fee structure established by the Government under the Licensing Act 2003.
- 2.2 The report also recommends that the Constitution is amended so that the power to set relevant fees for future years is included within the terms of reference of the Licensing and Gambling Committee.

3. LINKS TO STRATEGY

- 3.1 The annual review of Licensing fees contributes to the following Well-being Goals within the Well-being of Future Generations Act (Wales) 2015:
 - A prosperous Wales
 - A resilient Wales
 - A more equal Wales

4. THE REPORT

- 4.1 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.

- 4.2 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.
- 4.3 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 2018/19.

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.
- 4.4 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 2017/2018 and licensing processes have been further streamlined. There has been an absence of complaint led issues in this area and a review of Gambling Fees indicates that the current fees do not require amending for 2018/2019. However, there will be a significant amount of policy related work ahead in respect of preparing for the formulation of the Authority's revised Gambling Policy in January 2019 which is likely to impact upon 2019/2020 fee levels.
- 4.5 The Proposed fees for premises licences are attached as Appendix 1 and remain at the level set in 2017/18 due to the reasons given above. 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.
- 4.6 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 is currently working with the LGA to assess an appropriate fee structure. 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.
- 4.7 The majority of locally set Licensing fees are local choice functions and historically have been determined by Full Council after consideration and recommendation by the relevant Licensing Committee. Current exceptions are the setting of Dog Breeding and Scrap Metal licence fees which are an Executive function.

- 4.8 The existing terms of reference for the Licensing and General Committee are wide enough to allow the Committee to make decisions in respect of those fees which are set locally and as such it is the intention that in future years the Licensing and Gambling Committee exercise its power to set relevant fees without further reference to full Council. This will result in a more streamlined and responsive process and mirrors similar processes operated in other local authorities. Members of the relevant Licensing Committee have more detailed knowledge of the large number of types of licences administered by the service and the time and resources associated with the licensing process.

5. WELL-BEING OF FUTURE GENERATIONS

- 5.1 This report and associated proposals contributes to the Well-being Goals as set out in Links to Strategy above. They are consistent with the five ways of working as defined within the sustainable development principle in the Act. 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.

6. EQUALITIES IMPLICATIONS

- 6.1 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.

7. FINANCIAL IMPLICATIONS

- 7.1 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.
- 7.2 As set out at 4.2 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 2018 to 2019 will be dependent on the aggregation of fees for different licence types. Alcohol fees are set by Government and as it is proposed that Gambling fees remain static, income levels are likely to remain the same, dependent upon the number of applications.

8. PERSONNEL IMPLICATIONS

- 8.1 There are no personnel implications.

9. CONSULTATIONS

- 9.1 This report has been sent to the Consultees listed below and all comments received are reflected in this report.

10. RECOMMENDATIONS

10.1 That the Committee:-

- (a) consider and offer any comment on the level of fees proposed under the Gambling Act 2005 for 2018/19 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) To ask Council to note that in accordance with the existing powers contained in the terms of reference for the Licencing and Gambling Committee, for future years the decisions in respect of fees which are set locally will be made by the Licensing and Gambling Committee without further reference to full Council.

10.2 To refer the above recommendations to Council on 5th June 2018.

11. REASONS FOR THE RECOMMENDATIONS

11.1 To recover a reasonable level of costs incurred by the Council in administering the licensing service. To implement a more streamlined and responsive process for fee setting that mirrors similar processes operated in other local authorities.

12. STATUTORY POWER

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

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

Background Papers:

Open for business LGA guidance on Licensing fees Nov 2015 -
<https://www.local.gov.uk/open-business-lga-guidance-locally-set-licence-fees>

Appendices:

Appendix 1 – Gambling Act 2005 – Proposed premises licence fees for 2018/19
Appendix 2 – Gambling Act 2005 – Permits and associated charges
Appendix 3 – Licensing Act 2003 – Main fees