



Report to Licensing Committee

Date: 16th April 2024
Title: Approval of Gambling Licence Fees and Charges
Author(s): Simon Gallacher, Principal Licensing Officer

Recommendations:

To approve the proposed Gambling Licence Fees and charges set out in Appendix 1 to ensure that the gambling licensing regime remains cost neutral. Once approved the new fees and charges shall be applied from 1st May 2024.

1. Background

- 1.1 In accordance with the Gambling Act 2005 (the 'Act'), Buckinghamshire Council, in its role as Licensing Authority, is responsible for authorising certain gambling activities at premises used for gambling purposes by the issuing of premises licences and permits and processing notices.
- 1.2 Under section 349 of the Act, the Licensing Authority is required to prepare and publish a Statement of Licensing Policy, "Policy", which sets out its approach to the consideration and determination of applications made under the Act and any subsequent necessary compliance and enforcement action. The Policy must be reviewed by the council at least every 3 years. Buckinghamshire Council's current Policy took effect from 1st April 2022 and accordingly is due for review prior to 1st April 2025. A report relating to this review is scheduled to be presented at the next Licensing Committee meeting and will include officers' recommended Policy amendments and consultation proposals.
- 1.3 The purpose of this report is to provide the Licensing Committee with an update on the current position regarding gambling licence fees and to seek approval to apply a 4% increase in licence fees for the period 2024/25 to ensure that that the gambling licence regime remains cost neutral. It is proposed that the new fees take effect from 1st May 2024.
- 1.4 A further report will be provided to the Licensing Committee with details of a full service fee review which will be carried out in tandem with the statutory review of the current Policy.

2. Main content of report

- 2.1 Buckinghamshire Council, in its role as Licensing Authority, is responsible for issuing premises licences for premises where gambling activities are proposed to take place. Examples of such premises are betting shops, bingo halls and entertainment / gaming centres.
- 2.2 Licensing authorities are also responsible for issuing permits for gaming machines, processing notices for one off gambling events and for registering societies who wish to carry out small scale lotteries, and for ensuring local compliance and enforcement of the Act.
- 2.3 The Gambling Commission is responsible for licensing operators and individuals involved in the provision of gambling activities, including online and remote facilities.
- 2.4 Section 212 of the Act gives the Secretary of State power to make regulations prescribing the fees payable to the Licensing Authority. It also gives the power to devolve to Licensing Authorities in England and Wales the freedom to set fees for premises licence applications, subject to any constraints the Secretary of State may prescribe which includes a maximum fee level. The government has decided that for England and Wales, Licensing Authorities will determine their own fees for gambling premises licences but that the Secretary of State will prescribe the maximum fee payable for each category of licence.
- 2.5 The Gambling Commission's guidance for Licensing Authorities states at para 36.4 *Fee setting must be transparent and licensing authorities should closely track their costs and be able to evidence how they arrived at the fee levels in order to demonstrate that they have been calculated on a cost recovery basis only. Fees should be reviewed annually.*
- 2.6 In accordance with Buckinghamshire Council's constitution, the Licensing Committee is delegated with responsibility to determine and set fees associated with gambling premises licensing.
- 2.7 There is no statutory requirement for public consultation when setting fees under the Act and it for the Licensing Committee to agree these fees.
- 2.8 At its meeting of 20th October 2021, the Licensing Committee approved a schedule of new gambling licence fees to be applied when the new Policy took effect in April 2022. These fees were calculated based on a comprehensive review of the costs involved in delivering activities relating to gambling licences and reflected both the full staffing costs of running the service as well as the support service costs. This review also factored in recoverable costs incurred by the council such as Democratic Services and committees, corporate governance, office accommodation, IT provision, administration and supplies and services.

- 2.9 The general methodology behind the review of fees was determined by the Act and the document 'Open for business: Local Government Association (LGA) guidance on locally set licence fees'. The core principles in the LGA guidance are that fees should be non-discriminatory; justified; proportionate; clear; objective; made public in advance; transparent; and accessible.
- 2.10 The legislation does not require the Council to make a precise calculation to arrive at an income which exactly meets the cost of the administration of licences and permits. Councils are required, however, to take a reasonable and proportionate approach and should aim to set a fee level that is sufficient to cover the cost but not make a surplus. On that basis it was reported at the meeting of 20th October 2021 that a full service review of fees would be carried out on a rolling three year basis in line with the policy review, thus affording the opportunity to reconcile any surplus or deficit accrued.
- 2.11 It was also reported that fees would continue to be reviewed annually in relation to any increase in RPI, or alternate inflationary measure used by the Government, and where appropriate an increase will be applied to the fee to recover related increased costs to the council. Accordingly, an increase of 9% was applied to applicable gambling licence fees in April 2023 to reflect the inflationary change in prices over the preceding 12 months to ensure the licensing service continued to meet its costs in administering gambling licences without generating a surplus. It should be noted that this figure reflects the CPI rate of inflation which is used by the council rather than the RPI measures which tends to be slightly higher.
- 2.12 Having reviewed the budgetary position, licence fees should now increase by 4%, which reflects the CPI measure of inflation for the preceding 12 months, to ensure that income from gambling licence fees continue to meet the costs incurred in administering the gambling licence regime without generating a surplus.
- 2.13 Current gambling licence fees are shown at Appendix 1, together with the proposed fees reflecting a 4% increase.
- 2.14 Some fees, such as for small society lotteries, gaming machine permits and automatic entitlements are set by central government and there is no discretion locally. No fee is chargeable for Occasional Use Notices which are intended for infrequent (a maximum of 8 per year) track betting at events such as point-to-point meetings.
- 2.15 For premises licence fees and Temporary Use Notices, there are regulations which set maximum possible fee levels for each type of application. These maximum permitted fee levels have also been included in Appendix 1 for comparison purposes.
- 2.16 The number of licensed gambling premises has reduced slightly since the new Policy was introduced in April 2022 and this is likely to be reflective of the increasing preference for online based gambling portals which are regulated by the Gambling

Commission. The majority of the tasks carried out by the licensing service in this area relate to processing requests for gaming permits, small society lottery registrations, ongoing maintenance of premises licences, compliance and enforcement activities.

- 2.17 A further report will be provided to the Licensing Committee later this year with details of a full service fee review which will be carried out in tandem with the statutory review of the current Policy. This report will include additional budgetary information and the latest fee comparison benchmarking with other licensing authorities.

3. Next steps and review

- 3.1 If approved, it is intended that the fee changes will be communicated to existing premises licence holders and the changes will take effect from 1st May 2024.

4. Other options considered

- 4.1 None. The proposed changes are considered necessary so the licensing service can continue to manage the local gambling premises licensing regime on a cost neutral basis.

5. Legal and financial implications

- 5.1 [Section 212 of the Gambling Act 2005](#) states that the licensing authority, "...shall aim to ensure that the income from fees of that kind [determined by the licensing authority] as nearly as possible equates to the costs of providing the service to which the fee relates...".
- 5.2 The [Gambling \(Premises Licence Fees\) \(England and Wales\) Regulations 2007](#) (the 'Regulations') set out the statutory provisions and limitations for setting gambling fees.
- 5.3 *R (Cummings) v Cardiff* [2014] established that the charges within a licensing regime for different categories of licence should be accounted entirely separately and should not subsidise each other.
- 5.4 In *Hemming v Westminster* [2013] the Supreme Court identified two different approaches to charging licence fees. The type 'A' approach is whereby a fee is charged to cover the cost of determining the application and a second fee is payable to cover ongoing maintenance. The type 'B' approach is whereby the whole fee is charged and in the event that an application is unsuccessful any surplus fee paid by the applicant is refunded. The Court's view was that the type B approach is not compatible with the Provision of Service Regulations, however it should be noted that these regulations do not apply to the licensing of gambling activities. In

addition, as noted in the LGA guidance, not all legislation permits councils to set out fees in this way. Under section 159 (6)(c) of the Act, gambling premises applications must be accompanied by the prescribed fee and there appears to be no discretion to separate out when different elements of the fee are paid.

- 5.5 The proposed increase of 4% is considered necessary and proportionate to ensure that the revenue from licence fees continues to meet the costs of delivering the gambling licensing regime without incurring a surplus. The 4% increase is subject to any stipulated Statutory Maximum fee.
- 5.6 There are no net impacts on the Council's medium term financial plan.

6. Corporate implications

- 6.1 Protecting the vulnerable – The licensing objectives underpinning the Gambling Act 2005 include the requirement to protect children and other vulnerable persons from being harmed or exploited by gambling. It is important that the costs of maintaining the local licensing regime are met so that the service is adequately resourced to take the appropriate steps to ensure the ongoing promotion of this objective.

6.2 Property – N/A

6.3 HR – N/A

6.4 Climate change – N/A

6.5 Sustainability – N/A

Equality – an equality impact screening assessment was completed in 2021 and indicates that a full equalities impact assessment is not required. A further assessment will be carried out as part of the Policy review. The proposed increase in licence fees will ensure that the current status is maintained and it is not anticipated that any protected group will be adversely impacted by the proposed fee increases.

6.6 Data – N/A

- 6.7 Value for money – the Licensing Service has ensured that the costs involved in delivering the service are kept to a minimum whilst also ensuring that the provision of the service is cost neutral.

Key documents:

Open for business: Local Government Association (LGA) guidance on locally set licence fees.

<https://www.local.gov.uk/publications/lga-guidance-locally-set-licensing-fees>