

Committee: Licensing Committee	Dated: 5 February 2020
Subject: Gambling Act – Annual Review of Fees 2020/21	Public
Report of: Director of Markets and Consumer Protection	For Decision
Report author: Peter Davenport - Licensing	

Summary

The City of London Corporation has to set annual fees for those premises requiring a licence under the Gambling Act 2005. The report outlines current case law which has indicated that the process for setting the fees must be robust and that income received through the licensing process cannot exceed the cost of obtaining that income.

The matters considered by the licensing service in setting the proposed fees are discussed and include all aspects within the licensing process.

The proposed fees will result in slightly less income compared with previous years due primarily to a reduction in the forecast for the number of gambling premises in the City of London.

Recommendation(s)

Members are asked to:

- Agree the proposed fees for 2020/21 as set out in Appendix 1 (column 6, 'Proposed Fee').

Main Report

Background

1. The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (the 'Regulations') sets out the statutory provisions and limitations for setting gambling fees.
2. The City of London Licensing Authority must determine the appropriate fees subject to a maximum as set out in the schedule to the regulations. The fee structure allows for various types of applications associated with varying classes of premises licence, many of which do not currently apply within the City of

London, e.g. Casinos, Bingo Halls. The maximum fees permissible can be seen in Appendix 1, (column 4, 'Maximum permitted fee')

3. Licences are valid for life from the date of grant unless surrendered or revoked. An annual fee is due for payment within thirty days of the licence issue (effective date) and then annually thereafter.
4. 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. A High Court case held on 16 May 2012 (*R (Hemming and Others) v Westminster City Council*) concluded that the amount of the fee is required to be determined every year and further that a local authority was precluded from making a profit from the licensing regime. A full account of the fee income and expenditure would therefore need to be considered to ensure a surplus is not being made.
6. Successive appeals/decisions in the Court of Appeal, The Supreme Court and the European Court of Justice decided that the fee can include administrative costs involved, the costs of vetting the applicants (in the case of applications for a licence) and the costs of investigating/enforcing the licensing scheme including costs involved in enforcement against those premises that are not licensed.

Calculation of Fees for 2020/21

7. In order to avoid possible complications arising from non-compliance with the Hemming decision, the licensing service has carried out an in-depth examination of the processes that are undertaken in order to administer the licence application/renewal and the costs of investigating compliance with any licence condition.
8. In determining the proposed fee structure for gambling premises licences the following factors have been taken into account:
 - Officer time spent on processing applications including site inspections and the issue of any licence
 - Officer time spent on the development and maintenance of processes and guidance notes
 - Training of staff as necessary
 - A proportion of the service costs such as accommodation, equipment and central recharges
 - Officer time spent on inspections of licensed premises to ensure compliance with terms and conditions of any licence

- Time spent on the compilation of a new 'Statement of Licensing Principles'.

An example of those factors taken into account in the calculation of fees can be seen as Appendix 2.

- Gambling fees for 2020/21 have been calculated on the above basis for each of a number of different types of licence. Proposed fees have generally remained the same as costs exceed the maximum fee we are statutorily permitted to charge. Proposed fees can be seen as Appendix 1, column 6.
- The forecast number of applications for each main type can be seen in the table below along with the number of licences/registrations that were actually granted in previous years.

	2018/19		2019/20		2019/20
	Forecast	Actual	Forecast	Actual	Forecast
New Betting Shop	0	0	1	0	0
Annual fee (renewal)	36	32	32	32	24
Variation Betting Shop	1	0	0	0	0
Transfer	2	0	0	0	0
Temporary Use notice	0	2	2	1	1
Gaming machine permits	19	17	17	17	17
Small Society Lotteries (New)	-	-	-	-	5
Small Society Lotteries (Renewal)	-	-	-	-	20

Proposals/Options

- If fees are set lower than those recommended the result will be an increased deficit for 2020/21 as costs of administering the licence will not be fully met from income received.
- Fees set higher than those recommended, where permissible, will result in a surplus i.e. an income which exceeds the cost of providing the service.

13. Any such under or over recovery of costs from 2020/21 will be calculated after the end of that financial year and will be carried forward to be taken into consideration in setting fees for 2022/23, except in cases where costs are higher than the statutory maximum fee and there is therefore no prospect of offsetting the under recovery through future fee increases. The surplus or deficit on each fee type from 2018/19 has been taken into account when setting the fees for 2020/21, except where costs exceed the maximum fee as described above. Ignoring a surplus or deficit could result in the City Corporation being subject to legal challenge.

Corporate & Strategic Implications

14. The proposals within this report meet the statutory requirement to set fees for the licensing of activities within the Gambling Act 2005, as they apply to the City of London Corporation.

Implications

15. Setting the recommended fees will result in an estimated income from Gambling licence fees for 2020/21 of £16,350, against a budgeted income of £16,000.
16. Setting fees above or below those recommended will have the implications as set out in paragraphs 11- 13 above.

Appendices

- Appendix 1 – Proposed Fees for 2020/21
- Appendix 2 – Factors taken into account when calculating Fees.

Background Papers

None

Peter Davenport

Licensing Manager

T: 020 7332 3227

E: peter.davenport@cityoflondon.gov.uk