

## **LICENSING COMMITTEE**

### Minutes of the meeting of the Licensing Committee held on 17<sup>th</sup> March 2008 commencing at 5 p.m.

Present: Cllr. Loney (Chairman)

Cllrs. Abraham, Darrington, Mrs. Dawson, Piper and Wigg.

#### 1. MINUTES OF THE LAST MEETING

Resolved: That the minutes of the meeting of the Committee held on 21<sup>st</sup> January 2008 be approved and signed by the Chairman as a correct record.

#### 2. DECLARATIONS OF INTEREST

There were no declarations of interest from Members.

#### 3. GAMBLING ACT – TEMPORARY USE NOTICE (TUN) – FEES AND CHARGES (AGENDA ITEM NO. 3 – 17.03.08)

The Committee noted that paragraph 1.2 (a) of Part 8 of the Council's Constitution delegated authority to the Licensing Committee to discharge all functions of the District Council as licensing authority except matters specifically reserved for full council by the Gambling Act 2005. Accordingly the Committee considered a report that set out details of the proposed fees for a Temporary Usage Notice (TUN) as defined by Part 9 of the Gambling Act 2005. The regulations relating to TUN's had been introduced by the Gambling Act 2005 (Temporary Use Notices) Regulations 2007 which had been made on 1<sup>st</sup> November 2007 and came into effect from 1<sup>st</sup> December 2007.

The Gambling Act 2005 fees had been set for all other premises and notices at the Licensing Committee meeting on 30<sup>th</sup> May 2007. The fee model that had been used to work out the proposed fee for a Temporary Usage Notice was the same model that had been used for setting the other fees. The model was devised by the Local Authorities Co-ordinators of Regulatory Services (LACORS) which is a trade association for local authorities.

The Licensing Manager circulated to Members the LACORS model that had been used to calculate the fees for TUN's. The Committee was advised that TUN's could only be issued to premises that did not have a premises licence granted under the Gambling Act 2005. Any person applying for a TUN must have an operator's licence issued by the Gambling Commission. The Government had set a cap on fees for a TUN at £500 but a local authority must justify any approved fees so the standard LACORS model had been used as a tool to ensure the fees could be justified. In answering Members' concerns, the Licensing Manager informed the Committee that a TUN would not be required by a local club holding a bingo night in the local community hall, unless the club was exceeding prize money of £2,000 per week.

The Licensing Manager advised that as well as a TUN the Gambling Act provided that an Occasional Use Notice (OUN) could be served on the licensing authority. An OUN would be used when there was betting on a track on eight days or less in a calendar year. The definition of a "track" in the Act covered not just a horse racecourse or dog track but could be land which had a number of uses. The track did not need to be a permanent fixture. An example of where an OUN would be used would be at a point-to-point meeting.

## Licensing Committee – 17<sup>th</sup> March 2008

In response to a question about the overall profitability of the Licensing function (Gambling and Alcohol), the Chairman advised that it was nationally recognised that the Licensing function did not break even much less make a profit. Gambling Act fees, including TUN's fees, set by the licensing authority should break even. Even though the Government had said that alcohol licensing would break even it had not proved to be so. Alcohol licensing fees were set by the Government and these do not break even. The Government had commissioned an independent review which had confirmed this and proposed that local authorities be allowed to increase alcohol licensing fees above the rate of inflation for three years to recover the losses but, despite reminders from LACORS, the findings had resided on a Government Minister's desk.

Resolved: (a) that the fee payable under Section 219(3) (b) of the Gambling Act 2005 shall be set at £180.00 (Application fee); and

(b) that the fee payable under Section 227(6) (a) of the Gambling Act 2005 shall be set at £10.50 (Copy of notice).

#### 4. SEX ESTABLISHMENTS – DETERMINATION OF APPLICATIONS AND FEES (AGENDA ITEM NO. 4 – 17.03.08)

The Committee noted that paragraph 1.2 (c) of Part 8 of the Council's Constitution delegated authority to the Licensing Committee to determine applications for licensing sex establishments. Members considered a report that outlined the procedure and criteria for determining applications and suggested fees for new applications, transfers of existing licences, and annual fees. No application had been made to the Council although enquiries had been received regarding the procedure, criteria and level of fees. In 1984 the council had resolved that Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 should apply to the local authority area. Schedule 3 set out the procedure for local authority control of sex establishments and the criteria to be used to determine applications. At that time the council had set the fee for granting an application, transferring a licence and the annual renewal of the licence at £500. The fee had never been increased.

The Licensing Manager advised that since the publication of the report he had received legal advice about the setting of the fees for sex establishments. The report had been written using comparative information of fees set by other Kent local authorities. Members noted the following information:

- No sex establishment applications had been received by the Council although a few enquiries had been received.
- Most local authorities publish their fees.
- The term 'sex establishment' included sex shops and sex cinemas.

Members noted that Tunbridge Wells Borough Council current fee levels were £6,598 for grant of a new licence and fees of renewal £1,750 with grant £390 after successful renewal. Maidstone Borough Council had a fee of £3,868 and a renewal of £1,453, Canterbury City Council - £5,854 grant and renewal and Dartford Borough Council - £15,000 for grant and £10,000 for renewal.

The Licensing Manager had used the LACORS model for calculating fees. After concerns from Members that the suggested fee of £1,100 was too low, by applying time and cost against key cost drivers a revised fee level of £2,300 was arrived at for

## Licensing Committee – 17<sup>th</sup> March 2008

consideration. The key drivers that were increased were Officer time in handling representations and the cost of holding a Hearing.

A debate ensued and the following comments were made by Members and Officers:

- Sex establishments in other districts that had been inspected by Officers had been found to be well organised and run with double doors into the premises and wide ranging CCTV coverage of all areas of the shop.
- The suggested fee was the lowest in Kent.
- It was considered by some Members that the suggested fee was too low.
- The need to be consistent in the use of the LACORS model in setting fees and charges was recognised by the Committee.
- It was noted that the low fee may cause a 'flood' of applications, but it was also noted that the Council did not have to grant an application.
- Members noted that the fee was currently set at £500 (and had been for 20 years) and no application had ever been received by the Council.
- The Head of Environmental and Operational Services advised that the fee must not be used to deter applications and each application must be considered on its individual merits. He considered that the fees set by other local authorities in Kent might well be challenged.
- "Massage parlours" were licensed under different legislation.

During the debate, Officers considered Members comments and their objections to the low level of the suggested fee and undertook some calculations using the LACORS model. As a result of a recommendation from the Licensing Manager Cllr. Wigg moved and Cllr. Piper seconded that the fee for grant, renewal and transfer be set at £2,300.

Resolved: That, subject to an annual review, the fee for the grant, transfer or annual renewal of a licence for sex establishments be set at £2,300.

### 5. GAMBLING ACT – FEES AND CHARGES (AGENDA ITEM NO. 5 – 17.03.08)

Further to a meeting of the Committee (30.05.07) the report set out details of the proposed fees under the Gambling Act 2005 for the year commencing 1<sup>st</sup> September 2008 attached at Appendix B. The fees to 31<sup>st</sup> August 2008 had been set with the same fee model being used to calculate the proposed fee for the forthcoming year using a 2.5% inflation factor. There were currently eight licensed betting premises in the District that would be affected by the proposed fee increases. It was also suggested that the fees run until 31<sup>st</sup> March 2009 to accord with other licensing fees.

Resolved: That the Gambling Act 2005 fees for 2008/09 as set out in Appendix B of the report be approved and run from the 1<sup>st</sup> September 2008 until 31<sup>st</sup> March 2009.

THE MEETING WAS CONCLUDED AT 6 P.M.

Chairman

