

**BABERGH DISTRICT COUNCIL**

**FROM: HEAD OF NATURAL AND BUILT ENVIRONMENT**

**REPORT NUMBER    **G165****

**TO:    LICENSING AND APPEALS COMMITTEE**

**DATE OF MEETING: 3 January 2008**

**GAMBLING ACT 2005**  
**FEES FOR TEMPORARY USE NOTICES (TUNS)**

**1.    PURPOSE OF REPORT**

1.1    The purpose of this report is for the Committee to set the level of fee to be charged for Temporary Use Notices (TUNS) given under Part 9 of the Gambling Act 2005.

**2.    RECOMMENDATIONS**

2.1    That, with immediate effect, the fees chargeable for a Temporary Use Notice, and for the issue of a replacement Notice, be set at the maximum permissible under the regulations.

2.2    That the costs involved with these notices, as with other types of gambling permissions, be monitored by the Head of Natural and Built Environment and kept under periodic review.

The Committee is able to resolve these matters.

**3.    FINANCIAL IMPLICATIONS**

3.1    As per 'Risk Management' below.

**4.    RISK MANAGEMENT**

<b>Risk Description</b>	<b>Likelihood</b>	<b>Seriousness or Impact</b>	<b>Mitigation Measures</b>
The regulations enable Local Authorities to recover, as far as possible up to a prescribed maximum, the costs associated with this Notice through a fee. Failure to set the fee at an adequate level will result in a deficit that may impact on local taxpayers.	Significant	Critical	Regularly review licence and notice fees and associated costs to the Authority to ensure that licence fees are set, and continue to be set, at a level that as far as possible enables full cost recovery whilst still offering value for money.

**5.    KEY INFORMATION**

5.1    At its meeting of 31 October 2006, the Council resolved that all discretionary/self-set fees associated with Gambling Act 2005 functions shall be set by the full Licensing and Appeals Committee. Some fees under the Gambling Act 2005 can be self-set by the Local Authority, up to prescribed maxima and limited to cost recovery, whilst other fees are set centrally by the Government (primarily fees relating to different types of gambling permit).

- 5.2 The Gambling Act 2005 (Temporary Use Notices) Regulations 2007 were laid before parliament on 7 November 2007 and came into force on 1 December 2007. These Regulations provide that the fee payable on giving a Temporary Use Notice shall be determined by the Licensing Authority and shall not exceed £500. The fee for issuing a copy of the Temporary Use Notice shall not exceed £25.
- 5.3 Temporary Use Notices (TUNS) are a new type of gambling permission not previously available under the old gambling legislation. TUNS allow a Gambling Commission licensed gambling operator to apply to provide facilities for equal chance gaming on any premises. This gaming must not incorporate any gaming machine element, and must take the form of a competition to produce a single overall winner. The main example given by the Government where this will apply is for a Poker Tournament or commercial Bingo event at a conference centre, sporting venue or hotel.
- 5.4 As only licensed operators may apply for this permission, it is envisaged that it will mostly be the larger commercial enterprises that take advantage of this temporary authorisation. It remains to be seen how prevalently sought after a permission this will be. It is also not possible at this stage to anticipate the volume, frequency and nature of applications or representations against them, and it is therefore not feasible to offer any meaningful costing prediction at this stage.
- 5.5 Small scale equal chance gambling up to prescribed limits, for example Bingo, Dominoes, Cribbage, Poker etc, and non-commercial/incidental gaming can be exempt from regulation under the Gambling Act 2005, or can be permitted without additional authorisation by virtue of permissions held for the same premises under the Licensing Act 2003.
- 5.6 The procedures involved are that the operator applies to the Licensing Authority a minimum of 3 months prior to the gambling taking place. The Licensing Authority then has a maximum of 6 weeks to complete proceedings in relation to the giving of the notice, which may include mediation and/or a hearing. Objections to TUNS can be raised by the Chief Officer of Police for the area, the Gambling Commission, HM Revenues and Customs (termed 'Responsible Authorities' under the Act) and the Licensing Authority itself and the grounds would normally be linked to promotion of the licensing objectives. A single TUN can authorise up to 21 days of gambling on one set of premises in any 12 month period (not in the calendar year and at odds with other types of licensing permission). Should this limit be exceeded in any 12 month period then the Licensing Authority would serve a Counter-Notice to either prohibit or modify the gambling activities, dates or timings. A single 'set of premises' can not be sub-divided into different rooms or areas to increase these limits, as it can for Temporary Event Notices (TENS) under the Licensing Act 2003.
- 5.7 The Licensing Officer has had discussions with other Suffolk Authority Licensing Officers over the fees payable for these Notices and it appears to be the general intention that all will recommend adoption of the maxima followed by periodic costs analysis and review. The explanatory notes to the Regulations advises that the fee covers the following procedural matters:
- The person giving the Notice holds a relevant Operator Licence
  - The gambling offered is a permitted activity
  - The number of days proposed will not exceed 21 days within a 12 month period for that premises
  - Relevant contact details have been supplied for the activity
  - Any assessment and compliance visits
  - Updating local register
  - Dealing with objections and hearing if objections remain

**6. APPENDICES**

None.

**7. BACKGROUND PAPERS REFERRED TO**

None.

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