

Delegation of responsibilities under the Gambling Act 2005

Licensing Committee, Item 5

Committee: Licensing Committee

Agenda Item

Date: 7 March 2007

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Title: Delegation of responsibilities under the Gambling Act 2005

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Item for
Decision

Summary

A scheme of delegation is required under the Gambling Act 2005 to devolve powers from the Licensing Committee to officers. In addition certain powers in relation to the Gambling Act have been reserved for Full Council, which can be delegated to the Licensing Committee.

Recommendations

1. That the Committee approve the Scheme of Delegation as set out in Appendix One
2. Recommend to Full Council that the responsibility for setting licence fees under Section 212 of the Gambling Act 2005 be delegated to the Licensing Committee

Background Papers

Gambling Act 2005; Gambling Commission's Guidance to Licensing Authorities April 2006

Impact

Communication/Consultation	None
Community Safety	None
Equalities	None
Finance	None
Human Rights	None
Legal implications	None
Sustainability	None

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Ward-specific impacts	None
Workforce/Workplace	None

Situation

1. Section 154 of the Gambling Act 2005 provides that all decision relating to premises licences are delegated to the Licensing Committee of the authority set up under the Licensing Act 2003. There are 3 specific matters that Full Council only have ambit over, being the passing of a casino resolution, approving the Licensing Policy and setting fees.
2. Decisions that are delegated to a licensing committee may be further delegated to officers, other than the following decisions which cannot be made by officers:
 - Determination of an application for a premises licence where representations have been made and not withdrawn
 - Determination of an application for a variation of a premises licence where representations have been made and not withdrawn
 - Determination of an application for a transfer following representations by the Gambling Commission
 - Determination of an application for a provisional statement where representations have been made and not withdrawn
 - Determination of a review of a premises licence
3. Decisions on temporary use notices are delegated to the licensing committee and be further delegated, but any decision to give a counter notices must be dealt with by the Committee
4. Decisions in relations to permits are delegated to the licensing committee and may be further delegated to an officer, other than the following:
 - Determination of an application for a club gaming permit or club machine permit in respect of which objections have been made and not withdrawn
 - Cancellation of a club gaming or club machine permit
5. Appendix One shows the proposed scheme of delegation, with each function being delegated to the lowest level of delegation permitted by the Act.
6. The setting of fees under the Act is stated to be a function of Full Council but may be delegated to the Licensing Committee. The Government intends to set fee bands applicable to different types of gambling premises, and whilst the arrangement for such fees have not yet been determined by the Government, their consultation demonstrates that it is likely that a fee up to a

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prescribed maximum may be set for each premises licence category.

7. The Council as Licensing Authority is required to determine fees for the different premises types as specified in the regulations to be provided by the Government, with the aim of ensuring that the income from fees will as far as possible meet the cost of providing the gambling licensing service. As the Act provides the option for the delegation of the responsibility for setting fees to the Licensing Committee by Full Council, it would seem to be appropriate to do so. The Licensing Committee already has responsibility for other matters associated with the Act. It is open to the licensing committee to further delegate the setting of fees to officers, and Members are asked to consider their views on this matter.
8. In particular, it might be appropriate that in the first year the fees are set by officers given the likely timescale in which the decision will need to be made. The start of the transitional period by which the fees will need to have been set is the 25 May. The Regulations were published on 23 February
9. The first date on which the Licensing Authority can accept applications is the 25 May. The level of fee will need to have been set before that time and advertised so that applicants are aware of the requirements.
10. It should be noted that setting the fees in the first year will be difficult as it will simply be an estimate of the number and type of applications that will be received, and it will be necessary to properly review the fee structure fully after the first year.
11. Members should also be aware that unlike the Licensing Act, under the Gambling Act the Licensing Authority is also a responsible authority and is able to make representations on applications and request reviews of premises licences. Members are asked to consider delegating that authority from the Licensing Committee to officers, not least due to the limited time period during which the representations have to be made (28 days), and lack of independence of the Committee if they made the representation or request for review and then had to hold a hearing to consider the matter.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
The function is delegated to an inappropriate level	Low	Medium – delays in decisions being made and extra workload for the Committee	Delegated authority given to the lowest possible level.

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APPENDIX ONE

Matter to be dealt with	Full Council	Licensing Committee	Officers
Final Approval of three year licensing policy	√		
Policy not to permit casinos	√		
Fee setting		√	√ (in the First Year)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a transfer of a licence		Where representations have been received and not withdrawn	Where no representations received from the Commission
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Review of a premises licence		√	
Application for club gaming /club machines permits		Where objections have been made (and not withdrawn)	Where no objections made / objections have been withdrawn
Cancellation of club gaming / club machine permits		√	
Applications for other permits			√

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Cancellation of licensed premises gaming machine permits			√
Consideration of temporary Use notice			√
Decision to give counter notice to a temporary use notice		√	
Decision by Licensing Authority to make representations on application or variation of Premises Licence			√
Decision by Licensing Authority to request a review of a Premises Licence			√