

LICENSING COMMITTEE – 5TH MARCH 2007

Report of the Director of Partnerships and Customer Services

ITEM 4 GAMBLING POLICY – SCHEME OF DELEGATION

1. Purpose of the Report

To agree a Scheme of Delegation in respect of The Gambling Act 2005.

2. Recommendation(s)

1. That it be recommended to Council that the determination of premises licence fees under section 212 of the Gambling Act 2005 be delegated to the Director of Partnerships and Customer Services and that the Constitution be amended accordingly.
2. That it be recommended to Council that the list of Council functions in Part 3 of the Constitution be amended by the inclusion of:

Resolutions not to issue Casino licences under section 166 of the Gambling Act 2005.

3. That the following scheme of delegation is approved:

Delegation to the Licensing Committee

1. To make recommendations to Council in respect of the Council's licensing policy in respect of its powers under the Gambling Act 2005.
2. In those cases where a relevant representation has been received and not withdrawn, to discharge the Council's responsibility under the Gambling Act 2005 for determining the following:
 - (i) application for a premises licence;
 - (ii) application for the variation of a premises licence;
 - (iii) application for a provisional statement under section 204 of the Act;
 - (iv) application for a club gaming permit or club machine permit under sections 271 and 273 of the Act.
3. To determine the following matters concerning the discharge by the Council of its licensing functions under the Gambling Act 2005:
 - (i) an application for transfer of a premises following representations by the Gambling Commission;
 - (ii) a review of a premises licence under section 201 of the Gambling Act 2005;
 - (iii) whether to issue a counter notice to a temporary use notice under section 224 of the Gambling Act 2005;
 - (iv) whether to cancel a gaming permit or club machine permit.

Delegation to the Deputy Director of Partnerships and Customer Services

1. To determine an application for a premises licence where no relevant representations have been made.
2. To determine an application for the variation of a premises licence where no relevant representations have been made.
3. To determine an application for transfer of a premises licence where no representations have been made by the Gambling Commission.
4. To determine an application for a provisional statement under section 204 of the Gambling Act 2005 where no relevant representations have been made.
5. To determine an application for a club gaming permit or club machine permit under sections 271 and 273 of the Gambling Act 2005 where no relevant representations have been made.

3. Reason

To agree appropriate delegations that comply with the requirements of the Gambling Act 2005

4. Background

The Gambling Act 2005 contains details of the delegation of powers under the Act. In short, all activity under the Act is delegated to the Licensing Committee (which was set up under the Licensing Act 2003), except:

1. Resolutions NOT to issue Casino licences under section 166 of the Act
2. Formulation of the Licensing Policy under section 349 of the Act, and
3. Determination of premises licence fees under section 212 of the Act. (This can be delegated to the Committee and to officers, but is not automatically delegated)

The delegation arrangements for these matters which can or must be reserved to Council will need to be recommended to Council by the Committee and the recommendations above have been drawn up accordingly.

The Act also sets out the following matters which are delegated by the Act to the Licensing Committee and which cannot be delegated by the Committee to officers:

- (a) determination of an application for a premises licence in respect of which representations have been made under section 161 (and not withdrawn),
- (b) determination of an application for the variation of a premises licence in respect of which representations have been made under section 161 as applied by section 187 (and not withdrawn),
- (c) determination of an application for transfer following representations by the Commission,
- (d) determination of an application for a provisional statement under section 204 in respect of which representations have been made under section 161 as applied by section 204 (and not withdrawn),
- (e) a review of a premises licence under section 201.
- (f) determination of whether to issue a counter notice to a temporary use notice under section 224 of the Gambling Act 2005,

- (g) determination of an application for or the cancellation of a club gaming permit or club machine permit under sections 271 and 273 of the Gambling Act 2005 in respect of which objections have been made and not withdrawn, and
- (h) determination of whether to cancel a club gaming permit or club machine permit.

The scheme of delegation proposed above delegates decisions to officers wherever this is permitted under the Gambling Act 2005. This includes provision for premises licence fees to be determined by officers.

It will be noted that the functions listed above all relate to premises licences. These are the only licences that will be issued by Licensing Authorities, as operating and personal licence will be the responsibility of the Gambling Commission. By way of explanation, a premises licence will authorise premises to be used for:

1. the operation of a casino (casino premises licence)
2. the provision of facilities for the playing of bingo (bingo premises licence)
3. making category B gaming machines available for use (adult gaming centre premises licence)
4. making category C gaming machines available for use (a family entertainment centre premise licence)
5. the provision of facilities for betting (for making or accepting bets, acting as a betting intermediary or by providing other facilities for betting).

Members will recall from the earlier training that the gaming machines are categorised basically by the type of machine, stake money and payout.

Representations may only be made by a "responsible authority" or an "interested party", within a given timescale, and must relate to the three licensing objectives (preventing gambling from being a source of crime and disorder, etc; ensuring gambling is conducted in a fair and open way; and, protecting children and other vulnerable persons from being harmed or exploited by gambling).

As with the Licensing Act 2003, representations that are "vexatious, repetitious, or which will not influence the authority's determination of the application" may be disregarded.

Background Papers:

Officer(s) to Contact:

David Platts (01509 634850)
David.platts@charnwood.gov.uk
Malcolm Burton (01509 634623)
Malcolm.burton@charnwood.gov.uk