

GENERAL PURPOSES AND LICENSING COMMITTEE – 16 MARCH 2007

GAMBLING ACT 2005 – DEMOCRATIC PROCESS

1. INTRODUCTION

- 1.1 This report proposes changes to the Licensing Sub-Committee's Terms of Reference and proposes delegation of powers to officers in order to facilitate decision-making under the Gambling Act 2005.

2. TERMS OF REFERENCE OF THE SUB-COMMITTEE

- 2.1 Members will be familiar with the current procedures for arranging hearings of the Licensing Sub-Committee, the Sub-Committee will continue to hold hearings in respect of the Licensing Act 2003 as well hearings under the Gambling Act 2005. It is proposed that the terms of reference for the Licensing Sub-Committee be amended to reflect the requirements under the Gambling Act 2005 as set out in Appendix 1 to this report. (Proposed additions are shown in bold italic print).
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- 2.2 The Proceedings of Licensing Committees and Sub-Committees in relation to the Gambling Act 2005 have now been published and there are marginal differences between these regulations and those of the Licensing Act 2003. These differences include allowing the Local Authority greater flexibility in timescales when fixing dates for hearings. In order to facilitate hearings under the Gambling Act 2005, it is proposed that the Committee agree the adoption of the hearing procedures currently used under liquor licensing and allow the Head of Democratic Services authority to make appropriate changes to these procedures.

3. DELEGATIONS TO OFFICERS

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- 3.1 Proposed delegations to officers under the Gambling Act 2005 are attached at Appendix 2 to this report. While it is clear from the legislation that the Committee has the power to approve those delegations relating specifically to Parts 8 and 9 of the Act, (which are the majority), it appears that full Council may need to approve a few of the proposed delegations.

4. ENVIRONMENTAL IMPLICATIONS

- 4.1 There are no environmental implications arising from this report.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications arising from this report.

6. CRIME AND DISORDER IMPLICATIONS

6.1 There are no crime and disorder implications arising from this report.

7. EQUALITY AND DIVERSITY IMPLICATIONS

7.1 The Council's Statement of Gambling Principles addresses any impact the functions of the Gambling Act might have, on the Council's residents, customers and employees by reference to their disability, age, gender, religion and beliefs, sexuality and race.

8. RECOMMENDATIONS

- # 8.1 That the amendments to the Licensing Sub-Committee's Terms of Reference as set out in Appendix 1 to this report be approved;
- 8.2 That the Head of Legal and Democratic Services be authorised to prepare a procedure for hearings under the Gambling Act 2005 before the Licensing Sub-Committee in consultation with the Chairman of the General Purposes and Licensing Committee and the Opposition Group Spokesperson; and
- # 8.3 That , the Committee approve the delegation of powers to officers listed at Appendix 2 to this report, in respect of those functions delegated to the Committee by law under Parts 8 & 9 of the Act;
- # 8.4 That, it be recommended to the Council that the delegation of powers to officers listed at Appendix 2 to this report be approved in respect of those functions that are for the Licensing Authority, but are not delegated to the Committee by law under Parts 8 & 9 of the Act.

Further information

Grainne O'Rourke
Head of Legal and Democratic Services

Tel: 023 8028 5285
Fax: 023 8028 5543
e-mail: grainne.o'rourke@nfdc.gov.uk

Background papers

Published information only

APPENDIX 1

LICENSING SUB-COMMITTEE

Councillors:

Any 3 members of the General Purposes and Licensing Committee, as determined by the Head of Legal and Democratic Services

Terms of Reference:

1. To conduct hearings where these are required under the Licensing Act 2003 **and Gambling Act 2005** and make determinations accordingly.
2. To make determinations where a hearing would have been necessary but for the fact that all interested parties have agreed that a hearing is unnecessary.
3. Where officers are unable or feel it is inappropriate to make a decision under their delegated powers, to determine any matter under the Licensing Act 2003 **and Gambling Act 2005** and any matter relating to the licensing, registration and public rights of way functions in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
4. To consider whether to make representations on matters arising under the Licensing Act 2003 **and Gambling Act 2005** where the Council is a consultee and not the authority making the determination.

APPENDIX 2

Gambling Act 2005 - Delegation to Officers

Source	Power Delegated	Delegated To
Gambling Act 2005 sec 157	To carry out the licensing authority's functions as a responsible authority under section 157 (a) of the Act	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 304	To be authorized persons for the purposes of the Act	Licensing Manager or, in his or her absence, Licensing Officer and Environmental Health Manager (Environmental Protection), Environmental Health Manager (Commercial)
Gambling Act 2005 Sec 156(2), 234(2), Sch 10 para 23(2), Sch 11 para 55(2), Sch 12 para 26(2), Sch 13 para 22(2), Sch 14 para 23(2)	To refuse to provide a copy of an entry or information on the ground that the person seeking it has not paid a reasonable fee specified by the authority	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 158	To determine whether a person is an "interested party"	General Purposes and Licensing Committee
Gambling Act 2005 Sec 161	To determine whether a representation is vexatious, frivolous, or will certainly not influence the determination of the application	General Purposes and Licensing Committee
Gambling Act 2005 Sec 163	To grant an application for a premises licence	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 163	To reject an application for a premises licence	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 186 (4)	To make such alterations to the information contained in a premises licence as appears to him to be required by a change of circumstance	Licensing Manager or, in his or her absence, Licensing Officer

Gambling Act 2005 Sec 184 (5)	To issue a copy of a premises licence in a form which appears to him to reflect a change in circumstance	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 187	To grant an application for variation of a premises licence and to make transitional provision if he considers it appropriate	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 188	To grant an application for transfer of a premises licence	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 188	To refuse an application for transfer of a premises licence	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 189	To decide whether to disapply section 188(3)(b) where the applicant has failed to contact the licensee	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 190	To grant or refuse an application for a copy of a premises licence	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 190 (4)	To certify a copy of a premises licence or a summary of a premises licence as a true copy	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 193	To revoke a premises licence where the annual fee is not paid	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 194 (1)(b)	To decide that a premises licence has lapsed because, in their opinion, the licensee has become incapable of carrying on the licensed activities by reason of mental or physical incapacity	General Purposes and Licensing Committee
Gambling Act 2005 Sec 195	To reinstate a lapsed premises licence and to make such alteration of the licence as appears to him to be required	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 198	To reject an application for review of a premises licence where, or insofar as, they consider the grounds on which the	General Purposes and Licensing Committee

	review is sought fall within section 198(1)(a) to (f)	
Gambling Act 2005 Sec 199	To grant an application for review of a premises licence	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 200	To initiate a review in relation to a premises licence or a review of any matter connected with the use of premises in reliance on a premises licence	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 201 (4)(b)	To decide whether a review of a premises licence shall be conducted without a hearing	General Purposes and Licensing Committee
Gambling Act 2005 Sec 202 (1)	Where a review of a premises licence has been conducted without a hearing, to decide whether to revoke the licence, suspend the licence, exclude a condition, remove or extend an exclusion, or add, remove or amend a condition	General Purposes and Licensing Committee
Gambling Act 2005 Sec 204	To grant an application for a provisional statement	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 204	To reject an application for a provisional statement	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 205	To grant an application for a premises licence where a provisional statement has been issued	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 205	To refuse an application for a premises licence where a provisional statement has been issued	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 205 (2)	To disregard representations made in relation to an application for a premises licence where a provisional statement has been issued and he does not consider the representations address matters that could not have been addressed in	Licensing Manager or, in his or her absence, Licensing Officer

	representations in relation to the application for the provisional statement or reflect a change in the applicant's circumstances	
Gambling Act 2005 Sec 208 (2)	To direct that section 208(1) (stay pending appeal) shall not apply	General Purposes and Licensing Committee
Gambling Act 2005 Sec 221	To give notice of objection to a temporary use notice	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 222 (3)	To decide whether representations about a notice of objection to a temporary use notice shall be determined without a hearing	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 284	To make an order disapplying section 279 or 282(1) to specified premises where the licensee does not request a hearing	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 342	To do anything he thinks expedient for the purpose of cancelling, terminating or varying the effect of a decision which was taken in reliance upon false or misleading information	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sec 346	To institute criminal proceedings in respect of an offence under the Act	Head of Legal and Democratic Services, or Solicitor, or Employed Barrister
Gambling Act 2005 Sch 10 (8)	To grant an application for a family entertainment centre gaming machine permit	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 10 (8)	To refuse an application for a family entertainment centre gaming machine permit after giving the applicant the opportunity to make representations	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 10 (15)	To decide that a family entertainment centre gaming machine licence has lapsed because, in their opinion, the licensee	General Purposes and Licensing Committee

	has become incapable of carrying on the licensed activities by reason of mental or physical incapacity	
Gambling Act 2005 Sch 10 (18)	To grant an application for renewal of a family entertainment centre gaming machine licence	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 10 (18)	To refuse an application for renewal of a family entertainment centre gaming machine licence	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 10 (21)	To grant or refuse an application for a copy of a family entertainment centre gaming machine licence	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 10 (21) (4)	To certify a copy of a family entertainment centre gaming machine licence as a true copy	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 11 (40)	To consider whether a lottery to which a statement under paragraph 39 of Schedule 11 relates was a large lottery, and to notify the Gambling Commission if necessary	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 11 (48)	To refuse an application for registration of an exempt lottery after giving the applicant the opportunity to make representations	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 11 (50)	To revoke a registration under Part 5 of Schedule 11 after giving the registered society an opportunity to make representations	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 11 (54)	To decide whether to cancel a society's registration under Part 5 of Schedule 11 because the annual registration fee has not been paid	Licensing Manager or, in his or her absence, Licensing Officer

Gambling Act 2005 Sch 12 (5) and (10)	To grant an application for a club gaming or club machine permit	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 12 (5) and (10)	To refuse an application for a club gaming or club machine permit	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 12 (15)	To refuse an application for variation of a club gaming permit or club machine permit and to cancel the permit if he considers that he would refuse the application for the permit were it made anew	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 12 (16), Sch 13 (11) and Sch 14 (21)	To grant an application for a copy of a club gaming or club machine permit, a licensed premises gaming machine permit, or a prize gaming permit.	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 12 (16), Sch 13 (11) and Sch 14 (21)	To certify a copy of a club gaming or club machine permit, a licensed premises gaming machine permit or a prize gaming permit as a true copy.	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 13 (4)	To grant or refuse an application for a licensed premises gaming machine permit	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 13 (15)	To grant an application to vary the number or category (or both) of gaming machines authorized by a licensed premises gaming machine permit	General Purposes and Licensing Committee
Gambling Act 2005 Sch 13 (16)	To cancel a licensed premises gaming machine permit where the holder fails to pay an annual fee	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 13 (19)	To grant an application for the transfer of a licensed premises gaming machine permit	Licensing Manager or, in his or her absence, Licensing Officer

Gambling Act 2005 Sch 13 (19)(4)	To refuse an application for the transfer of a licensed premises gaming machine permit because the transfer of the on-premises alcohol licence has not been approved	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 10 (5), 13 (2) and 14 (6)	To approve the form and manner in which applications for family entertainment gaming machine permits, licensed premises gaming machine permits, and prize gaming permits must be made, and the information or documents that must accompany those applications	General Purposes and Licensing Committee
Gambling Act 2005 Sch 14 (9)	To grant an application for a prize gaming permit	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 14 (9)	To refuse an application for a prize gaming permit after giving the applicant the opportunity to make representations	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 14 (15)	To decide that a prize gaming permit has lapsed because, in their opinion, the holder has become incapable of carrying on the activities authorised by the permit by reason of mental or physical incapacity	General Purposes and Licensing Committee
Gambling Act 2005 Sch 14 (18)	To grant an application for renewal of a prize gaming permit	Licensing Manager or, in his or her absence, Licensing Officer
Gambling Act 2005 Sch 14 (18)	To refuse an application for renewal of a prize gaming permit after giving the applicant the opportunity to make representations	Licensing Manager or, in his or her absence, Licensing Officer