

LICENSING AND REGULATION COMMITTEE

24 October 2006

GAMBLING ACT 2003 – DELEGATION ARRANGEMENTS

REPORT OF CITY SECRETARY AND SOLICITOR

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RECENT REFERENCES:

LR 111 - LICENSING ACT 2003 – DELEGATION ARRANGEMENTS – 14 DECEMBER  
2004

EXECUTIVE SUMMARY:

The Gambling Act 2005 provides that the Licensing Committee appointed under the Licensing Act 2003 will be responsible for functions under the 2005 Act. The Council's Constitution has already been amended to provide for the Licensing and Regulation Committee to act as the Council's Licensing Committee. This report sets out further detailed constitutional changes, and the necessary delegation arrangements, to implement the Gambling Act functions.

RECOMMENDATIONS:

TO COUNCIL (subject to any comments by Licensing and Regulation Committee) that

- 1 Amendments to the Constitution as set out in Appendices 1, and 2 be approved, to give effect to the implementation of a revised scheme of delegation which takes account of the Gambling Act.

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### GAMBLING ACT 2003 – DELEGATION ARRANGEMENTS

#### REPORT OF CITY SECRETARY AND SOLICITOR

##### DETAIL:

#### 1 Introduction

- 1.1 Members will be aware that Licensing Act 2003 provides for district councils to act as the licensing authority for its area, and to discharge the functions allocated to the licensing authority. The Council designated the Licensing and Regulation Committee to carry out the functions of the Licensing Committee which had to be established under the 2003 Act.
- 1.2 The Gambling Act 2005 updates and consolidates legislation on gambling, and transfers further functions to the City Council as Licensing Authority. The legislative framework is similar, but not identical, to that under the Licensing Act 2003. The Licensing Committee set up for the purposes of the 2003 Act is also the Licensing Committee for the purposes of the Gambling Act 2005.
- 1.3 The Council's Constitution already provides for the Licensing and Regulation Committee to be the Council's Licensing Committee. Further amendments to the Constitution are required to deal with the additional functions allocated to the City Council under the Gambling Act.
- 1.4 The low number of gaming premises in the District requiring a Premises Licence mean it is unlikely that many hearings will have to be held. However, it is proposed that any such hearings are dealt with by the Licensing Sub-Committee, in line with the approach under the Licensing Act 2003.
- 1.5 Under the Gambling Act, the Council must adopt a Statement of Principles which it will use to implement its functions under the Act. A report on the adoption of the Statement appears elsewhere on this Agenda. The draft Statement which was advertised for consultation included a scheme of delegation (which sets out the applications which will be dealt with by a sub-committee, and which would be dealt with by officers), and the adopted Statement will reflect the scheme of delegation adopted by Members as a result of this report.

#### 2 Constitution Issues

- 2.1 Changes proposed in this report affect various provisions of the Council's constitution. These are Part 3 Section 4 (Responsibility for Functions – Regulatory Committee), and Part 3 Section 6 (Responsibility for Functions – Scheme of Delegation to Officers). The necessary changes are set out in Appendices 1 and 2.
- 2.2 The Council's Constitution (Part 3 Section 4) provides that the functions of the Council as Licensing Authority are to be exercised by the Licensing and Regulation Committee, which will therefore be the Licensing Committee for the purposes of the Gambling Act 2003.

### 3 Terms of Reference of Licensing Sub-Committee

- 3.1 Under the proposed Scheme of Delegation, it is suggested that all matters are dealt with either by officers under delegated powers, or by a Licensing Sub-Committee. The terms of reference of the Licensing Sub-Committee will therefore include the determination of all applications allocated to it under the Scheme of Delegation.

### 4 Role of Licensing and Regulation Committee

- 4.1 The Licensing and Regulation Committee would continue to have an overview on the Gambling Act function. It would receive reports on the operation of the new provisions, the operation and effect of the Statement of Principles, and the interaction of the Statement with other Council strategies. It would also deal with any applications which were referred back to it, or otherwise not dealt with, by the Licensing Sub-Committee.

### 5 Delegation to Officers

- 5.1 In order to deal with the administration of the new Act, it will be necessary to provide for various functions to be delegated to officers. The Constitution already includes a delegation to the City Secretary and Solicitor in connection with the Licensing Act, but it is appropriate to extend this to cover the Gambling Act functions.
- 5.2 The Gambling Act differs from the Licensing Act framework in that the City Council as licensing authority is now a “responsible authority” which can make representations and seek reviews of premises licences. This is in addition to the role of the City Council as regards environmental health and planning issues. In order to deal with this additional role, it is suggested that the City Secretary and Solicitor is formally authorised to make representations and seek reviews on behalf of the Licensing Authority.
- 5.3 Appendix 2 sets out the functions which it is proposed should be delegated to officers. As Gambling Act functions fall within the City Secretary and Solicitor’s Department, the delegation should be to the City Secretary and Solicitor.

## OTHER CONSIDERATIONS:

### 6 CORPORATE STRATEGY (RELEVANCE TO):

- 6.1 The licensing function relates to the “Safer and More Inclusive Communities” Priority, including:-
- Increase feelings of safety by reducing the likelihood that people will indulge in anti-social behaviour and continue to collaborate with our partners to continue to drive down levels of crime generally;
  - Improve access to services and to cultural opportunities for residents.

### 7 RESOURCE IMPLICATIONS:

- 7.1 The fee levels are not yet known, as the relevant regulations are yet to be made. It is anticipated that the fees chargeable will meet the resources required to discharge the Council’s functions under the Act.

BACKGROUND DOCUMENTS:

None

APPENDICES:

Appendix 1 – Amendments to Constitution, Part 3 Section 4 (Responsibility for Functions – Regulatory Committees)

Appendix 2 - Amendments to Constitution, Part 3 Section 6 (Responsibility for Functions – Scheme of Delegation to Officers)

## APPENDIX 1

**Amendments to Constitution, Part 3 Section 4 (Responsibility for Functions – Regulatory Committees)**

4.9 – add into table under Licensing and Regulation Committee:-

Function	Provision of Act or Statutory Instrument
77. The exercise of the Council's functions under the Gambling Act 2005.	Gambling Act 2005.

Insert in 4.10 and renumber thereafter:-

2. To deal with applications under the Gambling Act 2003 allocated to the Licensing Sub-Committee in the following table:-

<b>Matter to be dealt with</b>	<b>Licensing Sub-Committee</b>	<b>City Secretary and Solicitor</b>
Application for premises licence.	Where representations have been received and not withdrawn.	Where no representations received/representations have been withdrawn.
Application for variation to a premises licence	Where representations have been received and not withdrawn.	Where no representations received/representations have been withdrawn.
Application for a transfer of a premises licence.	Where representations have been received from the Commission and not withdrawn.	Where no representations have been received from the Commission.
Application for a provisional transfer of a premises licence.	Where representations have been received and not withdrawn.	Where no representations received/representations have been withdrawn.
Review of a premises licence.	All cases.	
Application for club gaming/ club machine permits.	Where objections have been received and not withdrawn.	Where no objections have been received/objections have been withdrawn.
Cancellation of club gaming/ club machine permits.	All cases.	
Application for other permits.		All cases.
Cancellation of licensed premises gaming machine permits.		All cases.
Consideration of temporary use notice.		All cases.
Decision to give a counter notice to a temporary use notice.	All cases.	

## APPENDIX 2

**Amendments to Constitution, Part 3 Section 6 (Responsibility for Functions – Scheme of Delegation to Officers)**

Add in after Paragraph 1, City Secretary and Solicitor, as follows and renumber thereafter:-

2. To deal with applications under the Gambling Act 2003 allocated to the Secretary and Solicitor in the following table:-

<b>Matter to be dealt with</b>	<b>Licensing Sub-Committee</b>	<b>City Secretary and Solicitor</b>
Application for premises licence.	Where representations have been received and not withdrawn.	Where no representations received/representations have been withdrawn.
Application for variation to a premises licence	Where representations have been received and not withdrawn.	Where no representations received/representations have been withdrawn.
Application for a transfer of a premises licence.	Where representations have been received from the Commission and not withdrawn.	Where no representations have been received from the Commission.
Application for a provisional transfer of a premises licence.	Where representations have been received and not withdrawn.	Where no representations received/representations have been withdrawn.
Review of a premises licence.	All cases.	
Application for club gaming/ club machine permits.	Where objections have been received and not withdrawn.	Where no objections have been received/objections have been withdrawn.
Cancellation of club gaming/ club machine permits.	All cases.	
Application for other permits.		All cases.
Cancellation of licensed premises gaming machine permits.		All cases.
Consideration of temporary use notice.		All cases.
Decision to give a counter notice to a temporary use notice.	All cases.	
Making representations or seeking reviews as Licensing Authority.		All cases.