

Agenda Item:

Report to: LICENSING COMMITTEE

Date: 8 March 2007

Report from: BOROUGH SOLICITOR AND MONITORING OFFICER

Title of report: **GAMBLING ACT DELEGATIONS AND HEARINGS PROCEDURE**

Purpose of report: To explain the proposed delegation of functions to Licensing Sub –Committees and officers, and to recommend a hearings procedure for gambling applications.

Recommendations: That Committee agree the recommendations set out in paragraphs 7 and 10 of the report.

INTRODUCTION

1. Council agreed the Gambling Act Statement of Principles at its meeting on 20 December 2006 and this came into effect on 31 January 2007.
2. There are some matters of delegation and procedure which this Committee is required to decide before the Council proceeds to function under the Act.

DELEGATIONS

3. On 20 December Council also agreed a revision of the Constitution. That is relevant to this report since two areas of delegation were included in the revised Constitution, namely:-
 - Gambling Act functions to Licensing Committee
 - Approval of gambling fees, other than as prescribed by Regulations, by the Chief Executive or his/her nominee, as part of the wide delegation to officers on the approval of fees and charges.
4. Strictly speaking the delegation of the Council's functions under the Gambling Act 2005 is effected by the legislation itself, in the same way as the Licensing Act 2003, to the Council's Licensing Committee, rather than by delegation by resolution of full Council. The Licensing Committee is a creature of the Licensing Act 2003 and governed by regulations made in respect of it. It is not, therefore, treated in the same way as Cabinet or other committees under the Constitution. For example, the right of the Ward member under the Constitution to address Cabinet or a committee is not available at Licensing Committee where representations made are strictly controlled by the Act.
5. The Act reserves two functions to full Council, namely:-
 - Approval of the gambling statement of principles/policy and its 3 yearly review.
 - Adoption of a policy not to permit casinos.
6. The Act permits delegation to sub-committees and to officers. The proposed structure of delegation is set out in appendix A and follows that attached to the Gambling Statement of Principles approved by Council in December. For the most part, what can and cannot be delegated is set out in the Gambling Act itself. The proposed scheme follows that recommended in the Gambling Commission Guidance.

7. **Recommendation: that for the purposes of Section 10 of the Licensing Act 2003, as applied by Section 154(3) of the Gambling Act 2005, functions of the Licensing Committee in relation to gambling are delegated as set out in Appendix A to the report.**

HEARINGS PROCEDURE

8. The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 set out the procedures to be adopted by officers prior to hearings as well as the principles to be adopted at hearings.
9. The draft Gambling Act Hearings Procedure set out in Appendix B is similar to that used at Licensing Act 2003 hearings but also adheres to the specific requirements of the 2007 Regulations.
10. **Recommendation: that Licensing Committee adopts the draft Gambling Act Hearings Procedure for the conduct of hearings required to be undertaken under the Gambling Act 2005 and in accordance with delegations agreed by this Committee to its sub-committees.**

Equalities & Community Cohesiveness	
Crime and Fear of Crime (Section 17)	
Risk Management	
Environmental issues	
Economic / Financial implications	
Human Rights Act	X
Organisational Consequences	X

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Appendices:

Appendix A – Delegation to Sub-Committees and Officers

Appendix B – Draft Gambling Act Hearings Procedure