

Sandwell Metropolitan Borough Council

Licensing Committee
23rd February 2007

Gambling Act 2005

1. Summary Statement

- 1.1 In accordance with the provisions of the Gambling Act 2005 [the Act], the Council as the Licensing Authority will be responsible for issuing various licenses, permits and notices relating to the use of premises for gambling activities within the Sandwell area. Section 154 of the Act delegates these functions to the Licensing Committee established under Section 6 of the Licensing Act 2003 [this Committee].
- 1.2 The key implementation dates for the provisions of the Act are 21st May 2007, when the Council as the Licensing Authority, will need to be in a position to start processing applications, and 1st September 2007 when the transition period ends, and new licences become live, and take effect.
- 1.3 The delegations are provided for by Section 154 of the Act and to give effect to the delegations referred to in paragraph 1.1 above, it is necessary to amend the Licensing Committee's terms of reference in order for it to deal with all matters relating to the discharge of the functions of the Licensing Authority under the Act and any regulations made thereunder, together with any related functions, with the exception of any function conferred on the Licensing Authority by Section 166 (Casino Resolution), Section 212 (Fees) and Section 349 (Statement of Principles). With regard to the fees, whilst not delegated by Section 154 of the Act, the Licensing Authority can delegate this function as mentioned in paragraph 1.4.
- 1.4 The Council at its meeting on 6th March 2007 will be asked to consider and approve revised terms of reference for the Committee. Draft terms of reference are attached as Appendix 1 for the Committee's information. It will also be necessary at the Council meeting to make consequential amendments to the terms of reference for the Licensing Miscellaneous Committee to avoid any duplication of functions and to amend the terms of reference of the Licensing Policy Review Group. Subsequently the Licensing Committee will need to consider revision of the terms of reference for the Licensing Panels.
- 1.5 It is anticipated that the Regulations setting the fees and charges will be

laid no later than 21st February 2007. The Act provides that the Licensing Authority may delegate the determination of fees and charges to a Committee or to an officer. Fees and charges have in the past been the remit of the appropriate Cabinet Member, but in respect of the Gambling Act 2005 this is not to be regarded as an executive function. It is therefore proposed to include responsibility for setting fees and charges in the terms of reference for this Committee. A further report will be submitted to the Committee in due course on proposals for the level of fees and charges to be levied.

- 1.6 In order to allow officers to carry out their operational duties, it will also be necessary to amend the Council's scheme of delegation to reflect the new provisions of the Act. Appendix 2 sets out proposed delegations to the Head of Environmental Health and Trading Standards which will need to be formally approved by this Committee at its meeting on 9th March, 2007.
- 1.7 The Licensing Authority will be requested to delegate the enforcement function under the Act to the Head of Environmental Health and Trading Standards as shown in Appendix 3.
- 1.8 In situations where the Licensing Authority is also acting as a "Responsible Authority", that is, entitled to make representations to the Licensing Authority in relation to applications, specific delegation of authority from the Licensing Committee to the appropriate Executive Director or Head of Service will also be required.

2. Recommendation

That Members note the contents of this report.

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Gambling Act 2005

3. Strategic Resource Implications

- 3.1 It is anticipated that resource costs are likely to be largely legal and administrative, with minimal enforcement being required or undertaken by the Licensing Team itself, involving the appointment of one Licensing Officer at scale 4/5 etc. equating to approximately £25,000, with some additional costs of £5,000 for equipment etc. Gambling licence income should, for the most part, offset against these resource costs, although it may be necessary to bring a further report, should the enforcement element be greater than anticipated.

4. Legal and Statutory Implications

- 4.1 The Council as the Licensing Authority has a legal duty under the Gambling Act 2005 to fulfil the role, carry out the duties in accordance with the Act, and guidance issued to Licensing Authorities by the Gambling Commission, hence the need for authority and functions as outlined in the report to be delegated to officers.
- 4.2 The Act requires that the Licensing Committee, as created under the Licensing Act 2003, determines gambling premises licence applications. Similarly, a “responsible Authority” or “interested party” may on application make a relevant representation (or later may request a review), following which the Licensing Committee may grant or reject the licence (or additionally vary or revoke on review).
- 4.3 When carrying out its functions under the Gambling Act 2005, the Council’s Licensing Committee, will apply the “Statement of Principles “, any Guidance from the Gambling Commission, the Act itself, and any relevant Regulations.

5. Implications for the Council’s Corporate Priorities

- 5.1 The Gambling Act 2005 has three licensing objectives, which are highly pertinent to the Council’s corporate priorities, these being:
- a. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - b. Ensuring that gambling is conducted in a fair and open way;

- c. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

5.2 The proposals contained within the report would have implications on the following corporate priorities:-

- (i) Safer, Cleaner, Stronger Communities - The Licensing function under the Gambling Act 2005 is key to the partnership working with “responsible Authorities” such as the police, fire, child protection, planning, and other agencies dealing with issues of safety, crime or disorder, anti-social behaviour, protecting the young and vulnerable in the community, as relating to the licensable activities associated with gambling. Whilst the legislation and duties relate to the whole of Sandwell, members of all local communities will benefit from the additional controls that the Act will place on gambling activities associated with premises in the community.
- (ii) Strengthening the protection and support for vulnerable children - There is always the potential for children to gain access to gambling establishments, which this new legislation will help to control further.

6. **Background Details**

6.1 No additional details.

Source Documents

- A/ Gambling Act 2005
- B/ Guidance to Licensing Authorities ,April 2006 (Gambling Commission)
- C/ Report to Cabinet Member for Community Safety and Partnerships [22nd September 2006] “Gambling Act 2005 Implementation – Approval of Statement of Principles”

Licensing Committee

The Licensing Committee shall:-

1. deal with all matters relating to the discharge of the functions of the Licensing Authority under the Licensing Act 2003 (referred to as “the 2003 Act”) and any regulations made under that Act, together with any related functions, with the exception of any function conferred on the Licensing Authority by Section 5 of the Licensing Act 2003 (Statement of Licensing Policy) and any function discharged under Section 7(5)(a) of that Act by a committee other than the Licensing Committee;
2. deal with all matters relating to the discharge of the functions of the Licensing Authority under the Gambling Act 2005 (referred to as the “2005 Act” and any regulations made under the 2005 Act, together with any related functions, with the exception of any function conferred on the Licensing Authority by Section 166 of the 2005 Act (Casino Resolution) and Section 349 of the 2005 Act (Statement of Principles).
3. deal with the determination of fees as they relate to gambling as provided for by Section 212 of the 2005 Act and any regulations made thereunder.
4. regulate its own procedure and that of the Licensing Panels, subject to any relevant regulations which may be issued under the 2003 Act and the 2005 Act.

DELEGATION OF AUTHORITY AND FUNCTIONS TO THE HEAD OF ENVIRONMENTAL HEALTH AND TRADING STANDARDS BY THE LICENSING COMMITTEE

Delegation of functions under the Gambling Act 2005

To authorise the Head of Environmental Health and Trading Standards to determine the following applications in the circumstances indicated:

Nature of Application	Prevailing Circumstance.
Application for premises licence	No representations received or where representations have been withdrawn.
Application for a variation to a licence	No representations received or where representations have been withdrawn.
Application for a transfer of a licence	No representations received from the Gambling Commission
Application for a provisional statement	No representations received or where representations have been withdrawn
Application for club gaming/club machine permits	No objections made or where objections have been withdrawn.
Applications for other permits	
Cancellation of licensed premises gaming machine permits	
Consideration of temporary use notice	

Note:- The delegations are in accordance with those recommended in Gambling Commission Guidance to Licensing Authorities.

**DELEGATION OF AUTHORITY AND FUNCTIONS TO THE HEAD
OF ENVIRONMENTAL HEALTH AND TRADING STANDARDS BY
THE LICENSING AUTHORITY**

Delegated Authority under Gambling Act 2005

To authorise the Head of Environmental Health and Trading Standards to enforce the provisions of the Gambling Act, 2005, either generally or specifically, in accordance with the Act, relevant statutory guidance and / or codes of practice, and to authorise persons in accordance with Section 304 of the Act.