

27 JUNE 2007

**DEPUTY LEADER
(+ ENVIRONMENT)**
*Councillor Nicholas
Botterill*

**COUNCIL CONSTITUTION: TERMS OF
REFERENCE OF LICENSING COMMITTEE &
LICENSING SUB COMMITTEE**

WARDS

All

The current Constitution contains the Licensing Committee and Sub-Committee's terms of reference. Under s154 of the Gambling Act 2005, the Licensing Committees have been delegated the functions of the licensing authority which are presently established under s6 of the Licensing Act 2003.

The Gambling Act 2005 (the Act) introduced a unified regulator for Gambling in Great Britain, the Gambling Commission, as well as a new system for commercial gambling to be managed by the Commission or by Local Authorities depending on the operation requiring licensing. Spread betting, Remote gambling and the National Lottery are the only exceptions.

The Council, as the Licensing Authority and the Gambling Commission, will share responsibility for all matters previously regulated by the Magistrates' court. The Gambling commission will be responsible for granting personal and operating licences, the council will issue premises licences for:

- betting offices
- bingo clubs
- adult gaming centres
- family entertainment centres

The Council will also issue permits for:

- gaming machines in alcohol-licensed premises
- gaming machines for members clubs
- gaming in members clubs
- family entertainment centres not licensed to sell alcohol
- occasional and temporary use notices; and
- provisional statements

Under the Act, the council must take into consideration the licensing objectives. These are:

- preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime;
- making sure that gambling is carried out in a fair and open way: and
- protecting children and other vulnerable people from being harmed or exploited by gambling.

In order for the above functions to be carried out, and in order to hear any applications which have had representations made against them, a Committee must be duly authorised by the full Council.

Comments of Assistant Director Public Protection & Safety

The Assistant Director Public Protection & Safety has no further comments to make.

Comments of Head of Legal services

The Council needs to make the recommended changes to its scheme of delegation in order to deal with its new functions under the Gambling Act 2005 effectively. The functions of adopting the Statement of Licensing Principles and passing a "no casinos" resolution must remain with full Council. Fees may be retained by full Council or delegated to the Licensing Committee/Sub-Committee. The remaining functions must be delegated to the Licensing Committee, Sub-Committee or officers (who cannot deal with cases where there are "live" objections).

CONTRIBUTORS

PPS

RECOMMENDATIONS:

1. That Council approves the revised terms of reference of the Licensing Committee & Licensing Sub-Committee with immediate effect, as set out in **Appendix 1** attached to the report.
2. That the Council delegates authority under the Gambling Act 2005 as per the revised terms of reference and as illustrated in **Annex 1** attached to the report.

**LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS**

No.	Description of Background Papers	Name/Ext. of Holder of File/Copy	Department/ Location
1	Terms of Reference for Licensing committee & Sub-committee	Oliver Sanandres	PPS – Safety and Licensing

TABLE OF PROPOSED DELEGATIONS OF LICENSING (GAMBLING) FUNCTIONS

Matter to be dealt with	Full Council	Committee and Sub committee	Officers
Statement of Gambling Principles	✓		
Policy not to permit casinos	✓		
Fee Setting – when appropriate		✓	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations have been received or representations made withdrawn
Application for variation to a licence		Where representations have been received and not withdrawn	Where no representations have been received or representations made withdrawn
Application for a transfer of a licence		Where representations have been made by the commission	Where no representations have been made by the commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations have been received or representations made withdrawn
Review of a premises licence		✓	
Application for club gaming/ club machine permits		Where representations have been received and not withdrawn	Where no representations have been received or representations made withdrawn
Cancellation of club gaming/club machine permits		✓	
Applications for other permits			✓
Cancellation of licensed premises gaming machine permits			✓
Consideration of temporary use notice			✓
Decision to give a counter notice to temporary use		✓	

LICENSING COMMITTEE
TERMS OF REFERENCE

MEMBERSHIP

- 1.1 The Committee shall comprise 15 Councillors (ratio 11:4).
- 1.2 There shall be no Ex-Officio members.
- 1.3 The quorum of the Committee shall be 5 Councillors.
- 1.4 The Committee may establish Sub-Committees comprising 3 members drawn from the parent Committee, and may delegate any, or all, of its functions to such Sub-Committees or to an Officer, subject to any statutory restrictions.
- 1.5 The Licensing Committee is constituted as Licensing Committee under s6 of the Licensing Act 2003 in respect of licensing and related functions under that Act, and as an ordinary committee under s101 of the Local Government Act 1972 in respect of its licensing, regulatory and registration functions. The functions of the Council as licensing authority under the Gambling Act 2005 are delegated under s154 of that Act to the licensing committee of the authority established under s6 of the Licensing Act 2003.

OPERATIONAL MATTERS

- 1.6 In the event of an equality of votes, the Chairman of the Committee shall have a second or casting vote.
- 1.7 A member may consider any matter affecting his/her Ward, or in which he/she (or their spouse/partner) has a personal interest (but not a prejudicial interest), provided the interest is disclosed in the usual manner in line with the provisions of the Members' Code of Conduct.
- 1.8 Ward Councillors may attend meetings where permitted under the Code of Conduct to make representations on behalf of their constituents.
- 1.9 Meetings will take place during the Municipal Year on dates & times as notified and as required.

DECISION-MAKING POWERS

- 2.1 All matters relating to the discharge of the Council's licensing and related functions under the Licensing Act 2003 and Gambling Act 2005, (other than the adoption of the Licensing Policy and the adoption of the Statement of Gambling Principles, and the passing of resolutions not to issue casino licences under the Gambling Act 2005 which shall be matters for Full

Council), shall be discharged by the Licensing Committee. See appendix A for further delegations schemes.

- 2.2 The Committee (or any Sub-Committee established for the purpose) shall consider all matters relating to the discharge by the licensing authority of its licensing and related functions under the Licensing Act 2003, with a view to promoting the licensing objectives:
- The prevention of crime & disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 2.3 The Committee shall consider all matters relating to the discharge by the licensing authority of its licensing and related functions under the Gambling Act 2005, with a view to promoting the following objectives:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way, and
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 2.4 The Committee (or any Sub-Committee) shall have regard to the Statements of Licensing and Gambling Policy published by the licensing authority, and to any Guidance issued by the Secretary of State.
- 2.5 To consider and resolve all other matters relating to the Licensing, Certification and Registration functions of the Council undertaken by the Director of Environment Department & Head of Customer First.
- 2.6 To hear appeals against decisions made by officers carrying out delegated functions in respect of the matters set out in paragraph 2.5.
- 2.7 To hear and determine all applications for full or partial waivers of the rule of Management No. 1A (for small establishments) or 3a (for large establishments) relating to striptease/activity which could require a Sex Establishment licence if the Council has so resolved.

LICENSING SUB-COMMITTEE
TERMS OF REFERENCE

MEMBERSHIP

- 1.1 The Sub-Committee shall comprise 3 Councillors drawn from the membership of the Licensing Committee.
- 1.2 There shall be no Ex-Officio members
- 1.3 The quorum of the Sub-Committee shall be 2 Councillors.
- 1.4 The Licensing Sub-Committee is constituted as a Sub-Committee under s9 of the Licensing Act 2003 in respect of licensing and related functions under that Act and in respect of its functions under the Gambling Act 2005, and as an ordinary committee under s101 of the Local Government Act 1972 in respect of its licensing, regulatory and registration functions.

OPERATIONAL MATTERS

- 1.5 In the event of an equality of votes, the Chairman of the Sub-Committee shall have a second or casting vote.
- 1.6 A member may consider any matter affecting his/her Ward, or in which he/she (or their spouse/partner) has a personal interest (but not a prejudicial interest), provided the interest is disclosed in the usual manner in line with the provisions of the Members' Code of Conduct.
- 1.7 Ward Councillors may attend meetings where permitted under the Code of Conduct to make representations as interested parties themselves, or on behalf of their constituents, where permitted by the relevant legislation.
- 1.8 Meetings will take place during the Municipal Year on dates & times as notified and as required.

DECISION-MAKING POWERS

- 2.1 All matters relating to the discharge of the Council's licensing and related functions under the Licensing Act 2003, (other than the adoption of the Licensing Policy and the adoption of the Statement of Gambling Principles, and the passing of resolutions not to issue casino licences under the Gambling Act 2005 which shall be matters for Full Council).
- 2.2 The Sub-Committee shall consider all matters relating to the discharge by the licensing authority of its licensing and related functions under the Licensing Act 2003, with a view to promoting the licensing objectives:

- The prevention of crime & disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

2.3 The Sub-Committee shall consider all matters relating to the discharge by the licensing authority of its licensing and related functions under the Gambling Act 2005, with a view to promoting the following objectives:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way, and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

2.4 The Sub-Committee shall have regard to the Statements of Licensing and Gambling Policy published by the licensing authority, and to any Guidance issued by the Secretary of State.

2.5 To consider and resolve all other matters relating to the Licensing, Certification and Registration functions of the Council (i.e. matters other than those under the Licensing Act 2003).

2.6 To hear appeals against decisions made by officers carrying out delegated functions in respect of the matters set out in paragraph 2.5.

2.7 To hear and determine all applications for full or partial waivers of the Rules of Management No. 1A (for small establishments) or 3a (for large establishments) relating to striptease/activity which could require a Sex Establishment licence if the Council has so resolved.