

WALSALL COUNCIL

**REPORT OF THE HEAD OF PUBLIC PROTECTION
LICENSING AND SAFETY COMMITTEE**

27 MAY, 2009

LICENSING SUB-COMMITTEES

1.0 **Purpose of Report**

1.1 The purpose of the report is to seek the Committees approval to the re-establishment for the 2009/10 Municipal Year of Licensing Sub-Committees to consider applications under the Gambling Act 2005.

2.0 **Recommendations**

2.1 The Committee is asked to :-

- a) Re-establish sub-committees in accordance with section 9 of the Licensing Act 2003, to determine applications under The Gambling Act 2005 in the circumstances detailed in the appendix attached to this report;
- b) Authorise the Head of Public Protection to determine applications under the Licensing Act 2003, in the circumstances identified in the appendix attached to this report.

3.0 **Legal Implications**

3.1 Section 154 of the Gambling Act 2005 provides that all decisions relating to premises licences are delegated to the licensing committee of the authority that has been established under section 6 of the Licensing Act 2003.

Decisions that are delegated to a licensing committee may be further delegated to a sub-committee of the licensing committee, which may arrange for them to be taken by an officer of the authority. However, the following decisions may not be made by an officer (ie they must be made by either the sub-committee or the licensing committee):

- determination of an application for a premises licence where representations have been made and not withdrawn;
- determination of an application for variation of a premises licence where representations have been made and not withdrawn;

- determination of an application for transfer, following representations by the Commission'
- determination of an application for a provisional statement where representations have been made and not withdrawn; and
- review of a premises licence.

4.0 Financial Implications

4.1 The Gambling (Premise Licence Fees) (England and Wales) Regulations came into force on 21st May 2007. These regulations provide for licensing authorities to determine fees, subject to prescribed maximum limits.

On the 2nd July 2006 Council received a report detailing fees and charges to be made under the Gambling Act 2005. It resolved to :

- 1) Determine the proposed fees to be charged in respect of the Gambling Act 2005.
- 2) Delegate the authority to determine future fees in respect of the Gambling Act 2005 to the Licensing and Safety Committee.

5.0 Equal Opportunities Implications

5.1 None.

6.0 Environmental Impact

6.1 None.

7.0 Other Policy Implications

7.1 The scheme of delegations closely follows that outlined for the purposes of the Licensing Act 2003.

8.0 Background

8.1 The Gambling Act 2005 received Royal Assent on 7th April 2005. It puts in place a comprehensive new framework for the regulation of gambling. The Act came into force in September 2007.

The Act places a duty on the Local Authority to determine its statement of principles with respect to the exercise of its functions, and publish that policy before it starts the exercise of those functions. The Council publicly consulted on the draft statement of principles between 26th July 2006 and 16th October 2006, and have incorporated some proposed amendments within the statement of principles. This statement has to be reviewed from time to time and be published at least every three years.

On 6th November 2006 Council received a report detailing the Draft Statement of Principles and resolved to:

- 1) Adopt the draft Statement of Principles
- 2) Delegate to the Licensing and Safety Committee the exercise of powers contained in the Gambling Act 2005.

The appendix to this report summarises the lowest level of delegation that is permitted under sections 154 and 155 of the Gambling Act 2005. These sections do not, however, apply to certain functions under the Act (for example, the removal of the automatic gaming exemption for alcohol-licensed premises under section 284). Licensing authorities will, in relation to those functions, need to ensure that they are familiar with any changes that have been made to the relevant legislation dealing with the allocation of responsibility for functions between the authority as a whole, and the executive.

- 8.2 Since the implementation of the legislation, 78 applications have been processed by the Council, none of which have had to be referred to a Licensing Sub-Committee for determination.

Background Papers

1. Guidance to Licensing Authorities, 2nd Edition, June 2007, Gambling Commission.

Appendix

Summary of licensing authority delegations permitted under the Gambling Act

| Matter to be dealt with | Full Council | Sub-Committee of Licensing Committee | Officers |
|---|---------------------|---|--|
| Final approval of three year licensing policy | X | | |
| Policy not to permit casinos | X | | |
| Fee setting (when appropriate) | | X (if delegated by full council) | |
| Application for premises licences | | Where representations have been received and not withdrawn | Where no representations received/representations have been withdrawn |
| Application for a variation to a licence | | Where representations have been received and not withdrawn | Where no representations received/representations have been withdrawn |
| Applications for a transfer of a licence | | Where representations have been received from the Commission or responsible authority | Where no representations received from the Commission or responsible authority |
| Application for a provisional statement | | Where representations have been received and not withdrawn | Where no representations received/representations have been withdrawn |
| Review of a premises Licence | | X | |
| Application for club gaming/club machine permits | | Where objections have been made (and not withdrawn) | Where no objections made/objections have been withdrawn |
| Cancellation of club gaming/club machine permits | | X | |
| Application for other Permits | | | X |
| Cancellation of licensing premises gaming machine permits | | | X |
| Consideration of temporary use notice | | | X |
| Decision to give a counter notice to a temporary use notice | | X | |

X indicates the lowest level to which decision can be delegated