

A meeting of the **LICENSING COMMITTEE** will be held in the **COUNCIL CHAMBER, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON, PE29 3TN** on **TUESDAY, 23 OCTOBER 2007 ON THE RISING OF THE LICENSING AND PROTECTION PANEL MEETING** and you are requested to attend for the transaction of the following business:-

**Contact
(01480)**

APOLOGIES

1. MINUTES (Pages 1 - 4)

To approve as a correct record the Minutes of the meeting of the Committee held on 13th June 2007.

**A Roberts
388009**

2. MEMBERS' INTERESTS

To receive from Members declarations as to personal and/or prejudicial interests and the nature of those interests in relation to any Agenda Item. Please see Notes 1 and 2 below.

3. LICENSING ACT - GUIDANCE (Pages 5 - 8)

To consider a report by the Head of Administration updating Members on the Statement of Licensing Policy and the guidance issued by the Secretary of State.

**R Reeves
388003**

4. LICENSING ACT 2003 - CURRENT UPDATE (Pages 9 - 10)

To receive a report by the Head of Administration on the licensing activity by the Council under the Licensing Act 2003.

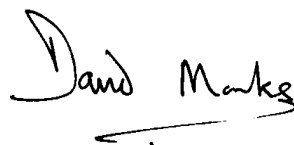
**G Peck
388010**

5. GAMBLING ACT 2005 - IMPLEMENTATION (Pages 11 - 14)

To consider a report by the Head of Administration on the transitional arrangements and implications of the Gambling Act 2005, since it has come in to effect on 1st September 2007.

**R Reeves
388003**

Dated this 12 day of October 2007



Chief Executive

Notes

1. *A personal interest exists where a decision on a matter would affect to a greater extent than other people in the District –*
 - (a) *the well-being, financial position, employment or business of the Councillor, their family or any person with whom they had a close association;*
 - (b) *a body employing those persons, any firm in which they are a partner and any company of which they are directors;*
 - (c) *any corporate body in which those persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or*
 - (d) *the Councillor's registerable financial and other interests.*
2. *A personal interest becomes a prejudicial interest where a member of the public (who has knowledge of the circumstances) would reasonably regard the Member's personal interest as being so significant that it is likely to prejudice the Councillor's judgement of the public interest.*

Please contact Miss H Ali, Democratic Services Officer, Tel No: 01480 388006 / e-mail: Habbiba.Ali@huntsdc.gov.uk if you have a general query on any Agenda Item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Committee.

Specific enquiries with regard to items on the Agenda should be directed towards the Contact Officer.

Members of the public are welcome to attend this meeting as observers except during consideration of confidential or exempt items of business.

Agenda and enclosures can be viewed on the District Council's website – www.huntingdonshire.gov.uk (under Councils and Democracy).

If you would like a translation of Agenda/Minutes/Reports or would like a large text version or an audio version please contact the Democratic Services Manager and we will try to accommodate your needs.

Emergency Procedure

In the event of the fire alarm being sounded and on the instruction of the Meeting Administrator, all attendees are requested to vacate the building via the closest emergency exit and to make their way to the car park adjacent to the Methodist Church on the High Street (opposite Prima's Italian Restaurant).

Agenda Item 1

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING COMMITTEE held in the Council Chamber, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Wednesday, 13 June 2007.

PRESENT: Councillor J M Sadler – Chairman.

Councillors K M Baker, J T Bell, J J Dutton, R S Farrer, J D Fell, A Hansard, I R Muir, R Powell and J S Watt.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Councillors R W J Eaton and T D Sanderson.

6. MINUTES

The Minutes of the meeting of the Committee held on 16th May 2007 were approved as a correct record and signed by the Chairman.

7. MEMBERS' INTERESTS

No declarations were received.

8. LICENSING SUB COMMITTEE PROCEDURE

Consideration was given to a report by the Head of Administration (a copy of which is appended in the Minute Book) informing the Committee that the Gambling Act 2005 required hearings to be held by a Sub-Committee where representations had been received from responsible authorities or interested parties for conversions, variations and new licences under the Act. In that respect the Committee discussed a suggested procedure for Sub-Committee hearings which incorporated the requirements of the relevant Regulations made under the Act.

RESOLVED

- (a) that the procedure for hearings of Licensing Sub-Committees under the Gambling Act 2005 set out in the appendix to the report now submitted be adopted; and
- (b) that the Head of Administration, after consultation with the Chairman or Vice-Chairman of the Committee, be authorised to make any minor changes to the procedure as may be necessary in the future.

9. GAMBLING ACT 2005 - CONDITIONS

With the aid of a report by the Head of Administration (a copy of which is appended in the Minute Book) the Committee were

acquainted with the arrangements for conditions to be attached to premises licences under the Gambling Act 2005 which, unlike the Licensing Act 2003 regime, now made provision for mandatory and default conditions. Having been informed that the licensing authority was able to exclude or vary default conditions and attach such other conditions to a licence where these were proportionate to the premises to be used and the form of gambling to be licensed, it was

RESOLVED

that the contents of the report be noted.

10. GAMBLING ACT 2005 - DELEGATIONS

Consideration was given to a report by the Head of Administration (a copy of which is appended in the Minute Book) recommending a schedule of delegations under the Gambling Act 2005. Where representations on an application for a premises licence were received or a review of a licence was initiated, a hearing by a Sub-Committee would need to be held. However, guidance issued by the Secretary of State recommended that, in the interests of speed, decision making should be delegated to officers as far as was permissible under the legislation. In that context, it was

RESOLVED

that the Schedule of Delegations under the Gambling Act 2005 as set out in the appendix attached to the report now submitted be approved.

11. GAMBLING ACT 2005 - FEES

By means of a report by the Head of Administration (a copy of which is appended in the Minute Book) the Committee was acquainted with the contents of guidance issued by the Department for Culture, Media and Sport in relation to fees for premises licences under the Gambling Act 2005. Having noted the discretion afforded to licensing authorities to charge up to a maximum level, the Committee was recommended to approve a schedule of fees for premises licences and other charges which, with the exception of first annual fees, represented the maximum permissible under the Act.

RESOLVED

that the fees for premises licences and other charges as set out in the appendix to the report now submitted be approved.

12. GAMBLING ACT 2005 - AUTHORISED PERSONS

Consideration was given to a report by the Head of Administration (a copy of which is appended in the Minute Book) informing the Committee that the Gambling Act 2005 enabled officers authorised by the Council to inspect or enter premises for a variety of purposes.

RESOLVED

that the following officers be authorised under Part 15 of the Gambling Act 2005 as authorised persons -

- ◆ Head of Administration,
- ◆ Central Services Manager,
- ◆ Licensing Officer, and
- ◆ Assistant Licensing Officers.

13. SUB COMMITTEES

Pursuant to Minute No. 5, the Committee reviewed its decision to establish groups from which Members would be appointed to Sub-Committees.

RESOLVED

- (a) that Minute No. 05/7 be rescinded; and
- (b) that three groups be established from which Members be appointed to 12 sub-committees as follows –
 - (1) i. Councillors Sadler, Baker and Farrer;
ii. Councillors Sadler, Baker and Watt;
iii. Councillors Sadler, Farrer and Watt;
iv. Councillors Baker, Farrer and Watt.
 - (2) i. Councillors Bell, Dutton and Fell;
ii. Councillors Bell, Dutton and Powell;
iii. Councillors Bell, Fell and Powell;
iv. Councillors Dutton, Fell and Powell.
 - (3) i. Councillors Muir, Eaton and Hansard;
ii. Councillors Muir, Eaton and Sanderson;
iii. Councillors Muir, Hansard and Sanderson;
iv. Councillors Eaton, Hansard and Sanderson.

Chairman

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LICENSING ACT 2003 GUIDANCE

(Report by Head of Administration)

1. Introduction

- 1.1 The Licensing Act 2003 states that, in carrying out its licensing functions, an authority must have regard to its licensing statement and to any guidance issued by the Secretary of State. The former must be reviewed every three years, while the latter may be changed at any time. The Council's initial Statement of Licensing Policy expires in January 2008 and the Secretary of State issued new guidance in the summer. The purpose of this report is to update Members on those issues.

2. Secretary of State's Guidance

- 2.1 A copy of the new guidance has been sent to all Members of the Committee under separate cover. The authority can depart from the guidance where this is felt appropriate but must have good reason for doing so and must be able to substantiate its decision if challenged through the courts. Members should familiarise themselves with the guidance if taking part in sub committee hearings.
- 2.2 The alterations compared with the earlier guidance are not significant, although the document has been re-ordered and updated to reflect legislative change and Government thinking since 2004. The main alterations in terms of the former are –
- a new offence of persistently selling alcohol to children,
 - new powers for the Police and the authority to designate Alcohol Disorder Zones as a last resort to tackle alcohol related crime and disorder,
 - a power to attach interim conditions to licences pending a full review, following an application by a senior police officer in cases of serious crime and disorder,
 - an additional power to issue a fixed penalty notice to licensing premises emitting noise between 11.00 p.m. and 7.00 a.m., and
 - a ban on smoking in all enclosed workplaces and public places.
- 2.3 The guidance also draws attention to the changes introduced by a new Fire Safety Order that covers general fire precautions and other fire safety duties and requires responsible persons to carry out fire risk assessments focusing on the safety of all relevant persons. Any conditions imposed by a licensing authority relating to requirements or prohibitions that could be imposed by the Order automatically have ceased to have effect without licences being varied. A licensing authority should no longer seek to impose fire safety conditions where the Order applies.
- 2.4 Clarification is contained in the guidance on the authorisation of sales of alcohol. It confirms that a personal licence holder may authorise another person to sell alcohol and be absent from the premises when the transaction takes place. The designated premises supervisor and personal licence holder will not escape responsibility for any actions taken by anyone authorised to make sales. Whether an authorisation has been made will be a matter of fact

decided by the courts but the Secretary of State considers that there should be an overt act of authorisation in writing, with the person so authorised being clearly identifiable and the personal licence holder monitoring the activity on a reasonably regular basis.

- 2.5 The Secretary of State has also stated that temporary events notices may be given for different rooms in a premises or for individual plots in a wider area of land as long as these are identifiable. Representations made by ACRE to increase the number of TENs that can be submitted in respect of village halls have been unsuccessful but the opportunity to submit TENs for different rooms and the ability for personal licence holders to authorise others to make sales should create greater flexibility for parish councils and village hall committees in managing community premises.
- 2.6 The guidance reminds councillors that they can make representations on an application in their own right as an interested person, where appropriate, but they can also act on behalf of a constituent if asked to do so in circumstances where that person (or business) is an interested person for the purposes of the Act. The legislation itself has not changed however inasmuch as a councillor cannot take it upon him or herself to submit representations simply as a ward councillor.

3. Statement of Licensing Policy

- 3.1 The Act requires each licensing authority to publish a statement of licensing policy, explaining how it will implement its licensing functions. Approval of the statement cannot be delegated by the Council. Again regard must be had to the statement by the authority and there must be good reasons for deviating from its content.
- 3.2 The existing statement came into effect in January 2005 and must be renewed in January 2008. The present statement reflects the Secretary of State's updated guidance and the authority did not attract any adverse challenge to its implementation, nor to its application in the transitional stage and subsequently.
- 3.3 The new draft statement has been modelled on the existing document and changes have been made only where it would otherwise conflict with the Secretary of State's updated guidance. A copy has been distributed previously to all Members and comments have been invited from a wide variety of organisations. The closing date is 5th November. It is intended that a summary of the comments will be submitted to Cabinet on 22nd November with final approval at the Council meeting held on 5th December 2007. An update of any comments received to date will be submitted at the Committee's meeting but to avoid the necessity of calling a special meeting to formulate recommendations to Cabinet, it is suggested that consideration of any consultation replies be delegated to the Head of Administration after consultation with the Chairman and Vice Chairman of the Committee.

4. Conclusion and Recommendation

- 4.1 Comments are invited from the Committee on both the Secretary of State's revised guidance and, more particularly, on the draft statement of licensing policy and it is

Recommended

that the Head of Administration, after consultation with the Chairman and Vice Chairman of the Committee, be authorised to make any changes to the statement of licensing policy as a result of the replies received during the consultation period and the Cabinet be requested to endorse the document for submission to the Council for approval.

Background Papers:

- Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003
- Statement of Licensing Policy of the authority dated January 2005
- Draft statement of Licensing Policy of the authority dated January 2008.

Contact Person: Roy Reeves
Head of Administration
Tel: (01480) 388003.

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**LICENSING ACT 2003 – CURRENT UPDATE
(Report by the Head of Administration)**

1. INTRODUCTION

It is the intention of this report to update Members on the licensing of premises and individuals under the Licensing Act 2003 since the report of October 2006.

2. INFORMATION

2.1 The total number of licences, certificates and temporary events notices are as follows with last years figures being in brackets.

Premises Licence	528	(511)
Club Premises Certificate	70	(70)
Personal Licences	981	(805)
Temporary Events Notices	458	(520)
Variations to Premises Licences	12	(25)
Applications for new Premises Licences	17	(33)
Renewal of Section 34 permits	49	(73)

2.2 Since the 24th October 2006 a total of 9 (9) hearings have been arranged following representations to licensing applications, none have been withdrawn (2).

2.3 Over the same period of time 2 reviews of licensed premises were held for premises in St Neots.

2.4 In line with the Guidance issued under the Act visits to licensed premises have been carried out on a targeted basis, so far a total of 35 (40) such visits have been made.

3. RECOMMENDATION

3.1 The Committee are invited to note the contents of the report.

**Contact Person: Mr G Peck, Licensing Officer
(01480 388010)**

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GAMBLING ACT 2005 – IMPLEMENTATION

(Report by Head of Administration)

1. Introduction

- 1.0 The second major transfer of licensing functions to the authority, the Gambling Act 2005, came into effect on 1st September. Reports on conditions, fees, delegations etc. were submitted to the last meeting of the Committee. This report summarises the present position in terms of the transitional arrangements and the implications of the legislation.

2. The Legislation

- 2.1 Regulations were being issued by Parliament until a matter of days before the Act came into force. Over 50 separate Statutory Instruments have now been published with other changes to the Act having been made by subsequent legislation. The Act requires the authority to have regard to guidance issued by the Gambling Commission on the exercise of its functions under the Act. The Commission issued a second edition of its Guidance in June and has also issued separate guidance on small society lotteries.
- 2.2 The Act requires the authority to produce its own statement of licensing principles which was approved by Council in December 2006.
- 2.3 Notwithstanding the criticism of DCMS about the way in which the Licensing Act was implemented, the same problems have occurred with the Gambling Act in terms of the late issue of Regulations and the deferral of the implementation date. Although the volume of applications to be dealt with is lower, the greater variety of licence and permit compared with the Licensing Act and the breadth and complexity of the legislation has meant that the implementation has been equally as demanding.

3. Transitional Arrangements

- 3.1 Those operators who held a licence under the previous legislation have had 2 months in which to fast track their applications for premises licences under the Act. The following applications have been received –

Betting (Track)	1
Betting (Betting Offices)	
Adult Gaming Centres	2
Family Entertainment Centres	0
Bingo	0

- 3.2 Those premises that require permits generally do not need to apply until such time as their existing permits granted by the courts and the Council are due for renewal. The first of those are now starting to be received, with the anticipated number of permits required, based upon data supplied by the courts, being –

Unlicensed Family Entertainment Centres	1
Club Gaming Permits	1
Club Machine Permits	31
Alcohol Licensed Premises	
Prize Gaming Permits	0

- 3.3 The number for club machine permits would appear to be low and will need some further investigation. However this will be reliant upon information supplied by the clubs as there is no right of entry by the authority to those premises.
- 3.4 There is no indication as to the volume of occasional use and occasional use notices that may be received, nor the amount of time that may be involved in monitoring the activities provided by travelling fairs.
- 3.5 The final change involves small society lotteries of which there are 189 registered currently. These will move to a rolling programme of annual fees for new applications as opposed to the present renewal at a fixed date.
- 3.6 Although there may be no licences or permits granted for particular types of gambling currently, the computer systems still need to be set up in the event of an application or notice being received at any point.

4. Information Exchange

- 4.1 The authority will need to work closely with the Gambling Commission which is responsible for the issue of operating and personal licences. The Commission and HM Customs and Revenues require notification of all new licences and permits, changes of address of licence holders etc. and the Commission has indicated that quarterly statistical reports must be submitted including details of any hearings, reviews, inspections as well as the number of licences and permits processed.

5. Fees

- 5.1 The Committee set the fees for premises licences at their last meeting. The fees for permits have been set by Regulation and are set out in the attached schedule.

6. Conclusion

- 6.1 Accommodating the implementation of the Gambling Act has been challenging, coming relatively soon after the Licensing Act. The combined knowledge required to understand the complexities of the legislation, together with the other existing licensing regimes, is significant with Licensing Section staff being frequently required to provide detailed explanations to applicants, licence holders, objectors and complainants. Nevertheless, the Section is on track to implement the Gambling Act on schedule with a minimum of disruption to existing licence and permit holders.

7. Recommendation

- 7.1 The Committee is

Recommended

to note the content of this report.

Background papers: Nil

Contact: Roy Reeves
Head of Administration
Tel: 388003

GAMBLING ACT 2005

TABLE OF STATUTORY FEES FOR PERMITS AND LOTTERIES

Type of permit/lottery	Fast Track Application	Non-fast Track Application	Duration of Permit	Renewal	First Annual Fee	Annual Fee	Variation	Transfer	Change of Name
	£	£		£	£	£	£	£	£
Unlicensed FEC (FEC Gaming Machine Permit)	100	300	10 years	300	n/a	n/a	n/a		25
Club Gaming Permit -									
for holder of club premises certificate	100	200	10 years	100	50	50	100		
all other cases	100	200	10 years	200	50	50	100		
Club Machine Permit -									
for holder of club premises certificate	100	200	10 years	100	50	50	100		
all other cases	100	200	10 years	200	50	50	100		
Alcohol Licensed Premises -									
for existing S34 permit holder		100	indefinitely	n/a	50	50	100	25	
all other cases		150	indefinitely	n/a	50	50	100	25	
2 machines only notice		50	indefinitely	n/a	n/a	n/a	n/a		
Prize Gaming Permit	100	300	10 years	300	n/a	n/a	n/a		25
Small Society Lotteries		40	indefinitely	n/a	n/a	20	n/a		

