

**GAMBLING ACT 2005 - DELEGATIONS  
(Report by Head of Administration)**

**1. INTRODUCTION**

- 1.1 The Gambling Act 2005 provides that the functions of the Council as the licensing authority will be carried out by its Licensing Committee with three exceptions. Two of those exceptions cannot be delegated to the Licensing Committee. These are a resolution not to issue casino licences and functions in relation to the three-year statement of gambling principles (the Licensing Policy). The third exception is the setting of fees (to the extent that the Council has delegated power in this respect).
- 1.2 The purpose of this report is to invite the Committee to determine the delegation of functions under the Act.

**2. GAMBLING COMMISSION GUIDANCE**

- 2.1 The Act requires the Gambling Commission to issue guidance to local authorities on the exercise of their functions and to which authorities must have regard. The guidance on delegation differs from that issued by the Secretary of State for alcohol licensing inasmuch as the latter recommended that decision making be delegated to Officers as far as was permissible under the legislation in the interests of speed. The Gambling Commission guidance makes it clear that it is open to Licensing Committees to choose not to delegate decisions and that an important consideration in determining whether any particular decision should be delegated will be whether delegation might give rise to a risk of judicial review challenge (particularly on the basis of an appearance of bias).
- 2.2 Decisions that are delegated to a Licensing Committee under the legislation may be further delegated to a sub-committee of the Licensing Committee or in certain circumstances to an officer. Generally where representations have been made and not withdrawn, the Act requires a hearing to be held and in such cases, it will be more appropriate for that decision making to be undertaken by a sub-committee. The Act lists a number of functions which may not be delegated to an officer which generally apply in the case of representations which have been received from responsible authorities or interested parties and not been withdrawn. Even though the parties concerned may have determined that a hearing is not necessary, in such cases an officer may not determine the application.
- 2.3 A schedule is attached which lists all the functions proposed for delegation by the Licensing Committee with recommendations as to whether these should be dealt with by sub-committees or by an officer.
- 2.4 With regard to fees, the Council's Code of Financial Management delegates responsibility for reviewing and varying fees and charges to Heads of

Service after consultation with the relevant executive councillor or chairman. It therefore seems inappropriate for the setting of relevant fees under the Gambling Act to be referred to the Council.

### **3. CONCLUSION AND RECOMMENDATIONS**

- 3.1 The Committee is required to determine the process by which applications and fees etc. will be determined under the Act and it is therefore

#### **RECOMMENDED**

- (a) that the Committee be invited to recommend the Council to delegate authority to set fees under the Act to the Committee; and
- (b) that the Committee approve the attached schedule of delegations under the Gambling Act.

#### **Background papers**

Gambling Commission – Guidance to Licensing Authorities – April 2006.

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