

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

1. INTRODUCTION

- 1.1 This report draws the attention of Members to the differences between the arrangements for conditions to be attached to premises licences under the Gambling Act 2005 and the Licensing Act 2003.

2. LICENSING ACT 2003

- 2.1 Members will recall that the Licensing Act precluded any form of standard conditions that could be attached to an individual premises licence. The statutory guidance issued by the Secretary of State under section 182 of the Act contained a pool of licensing conditions that were relevant to the achievement of the four licensing objectives contained in the Act. These were included in the Statement of Licensing Policy that the Council adopted as the licensing authority.
- 2.2 In practice, the authority was able only to include conditions in a licence that complied with an operating schedule submitted by an applicant. Some operating schedules that were submitted were extremely brief but the authority had no power to impose additional conditions unless representations were received from a responsible authority or an interested party which gave rise to a hearing, in which case a licensing sub committee could impose conditions where it was considered necessary to ensure achievement of the licensing objectives.

3. GAMBLING ACT 2005

- 3.1 A completely different approach has been taken with the Gambling Act. The Act enables the Secretary of State to specify mandatory conditions that must be attached to a premises licence granted by an authority and to specify default conditions that may be excluded by an authority. The mandatory and default conditions specified by the Secretary of State have now been made by regulation and these are attached as an appendix to this report.
- 3.2 During the transitional period for the implementation of the Act, an existing licence holder can apply for a fast track conversion of his licence at a reduced fee, in which case all of the mandatory and default conditions relevant to that form of gambling premises will be attached to the licence. An existing licence holder can also apply for a non-fast track conversion where all of the mandatory conditions will apply but he wishes to apply for the default condition to be disapplied by the authority.

- 3.3 In addition to excluding a default condition, the Act also enables the authority to attach other conditions to a licence. These would be likely to include a condition relating to the times when gambling could take place (in place of the default condition). A condition cannot be imposed however which would prevent compliance with a condition of an operating licence granted by the Gambling Commission. A condition can be imposed either by an officer acting under delegated powers or a licensing sub committee
- 3.1 In its Statement of Licensing Principles, the authority has stated that any conditions attached to a licence will be proportionate and will be –
- relevant to the need to make the proposed building suitable as a gambling facility;
 - directly related to the premises and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises; and
 - reasonable in all other respects.

4. CONCLUSION

- 4.1 Members are invited to note the significant difference in approach to conditions for premises licences when sitting in licensing sub committees to consider applications where representations have been received.

Background Papers:

- Statutory Guidance issued by Secretary of State under the Licensing Act 2003
- Statement of Licensing Policy
- The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007
- Statement of Principles under the Gambling Act

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