

CAMBRIDGE CITY COUNCIL

REPORT OF: Jas Lally
Head of Refuse and Environment

TO: Licensing Committee 08/10/2012

WARDS: All

REVIEW OF THE DELEGATION OF FUNCTIONS UNDER THE GAMBLING ACT 2005

1 INTRODUCTION

- 1.1 A review of legislation has been undertaken, examining processes and procedures with a view to simplifying processes by empowering officers to make decisions which do not require Member involvement.
- 1.2 The Gambling Act 2005 gives Licensing Authorities a number of important regulatory functions. In order to ensure that an efficient and cost-effective service is provided, it is proposed that the functions delegated to the Licensing Committee should be discharged in accordance with the table shown in paragraph 3.7 of the report.

2. RECOMMENDATIONS

- 2.1 Members are recommended:

To delegate the licensing functions under the Gambling Act 2005 to the Licensing Sub-Committee and the Head of Refuse and Environment as set out in the table shown in paragraph 3.7 of the report.

3. BACKGROUND

Functions delegated to the Licensing Committee

- 3.1 All functions under Part 8 of the Gambling Act 2005 relating to Premises Licences are delegated to the Licensing Committee by virtue of section 154(1) of the Act, except for:

- i) The decision to make a resolution not to issue casino licences under section 166 of the Act, which must remain with full Council; and
- ii) The setting of fees under section 212 of the Act, which may be delegated to the Licensing Committee by full Council.

The delegated functions include the determination of applications, the maintenance of the public register, the updating of Licences where addresses have changed, and the revocation of Licences for non-payment of annual fees.

3.2 In addition to the Premises Licence functions, the following functions are delegated to the Licensing Committee under the Gambling Act 2005:

3.2.1 Functions under Part 9 of the Act relating to Temporary Use Notices by virtue of section 232;

3.2.2 Functions under schedule 8 of the Act relating to Family Entertainment Centre Gaming Machine Permits by virtue of paragraph 6 of that schedule;

3.2.3 Functions under Schedule 12 relating to Club Gaming and Club Machine Permits by virtue of paragraph 28(1) of that schedule;

3.2.4 Functions under schedule 13 relating to licensed premises gaming machine permits by virtue of paragraph 3 of that schedule; and

3.2.5 Functions under schedule 14 relating to prize gaming permits by virtue of paragraph 7 of that schedule.

3.3 All other functions of the Licensing Authority lie with the full Council and apart from the determination of the Statement of Gambling Principles and the decision to make a resolution not to issue casino licences, the functions may be discharged in an appropriate way (other than by delegation to the authority's executive). The Council has resolved to delegate the following functions to the Licensing Committee:

3.3.1 Duty to comply with the requirement to provide information to the Gambling Commission pursuant to section 29 of the Act;

3.3.2 Functions relating to the exchange of information pursuant to section 30 of the Act;

3.3.3 Functions relating to occasional use notices pursuant to section 39 of the Act;

3.3.4 Power to designate an officer of a licensing authority as an authorised person for a purpose relating to premises pursuant to section 304 of the Act;

- 3.3.5 Power to make an order disappling section 279 or 282(1) of the 2005 Act in relation to specified premises pursuant to section 284 of the Act;
- 3.3.6 Power to institute criminal proceedings pursuant to section 346 of the Act;
- 3.3.7 Power to exchange information pursuant to section 350 of the Act;
- 3.3.8 Functions relating to the determination of fees for premises licences under the Gambling (Premises Licence Fees) England and Wales) Regulations 2007 (SI 2007/249); and
- 3.3.9 Functions relating to the registration and regulation of small society lotteries under Part 5 of Schedule 11 to the Act.

Delegation of Functions by the Licensing Committee

- 3.4 The Licensing Committee may delegate all of its functions to a sub-committee. Alternatively the Committee may arrange for the discharge of its functions by an Officer of the Licensing Authority, except for:
 - 3.4.1 the determination of applications for Premises Licences to be granted, varied or transferred in respect of which representations have been made and not withdrawn;
 - 3.4.2 the determination of applications for provisional statements where representations have been made and not withdrawn;
 - 3.4.3 the review of Premises Licences;
 - 3.4.4 the decision to give a counter-notice for a temporary use notice where objection notices have been served and not withdrawn; and
 - 3.4.5 the determination of an application for a club gaming or club machine permit in respect of which an objection has been made and not withdrawn, and the cancellation of a permit.

Current Delegations

- 3.5 The following functions are currently delegated to the Head of Refuse & Environment:
 - 3.5.1 The grant and renewal of all Section 34 permits for amusements with prizes machines subject to consultation with the Chair and Spokes of the Licensing Committee in relation to applications for more than 10 machines;
 - 3.5.2 The grant and renewal of Section 16 permits;
 - 3.5.3 The grant and renewal of Section 6 Orders;
 - 3.5.4 Duty to comply with requirement to provide information to Gambling Commission under section 29 of the Gambling Act 2005;

- 3.5.5 Functions relating to exchange of information under section 30 of the Gambling Act 2005;
 - 3.5.6 Power to designate an officer as an authorised person for a purpose relating to premises under section 304;
 - 3.5.7 To register societies for the purpose of holding small lotteries; and
 - 3.5.8 Grant and renewal of licences for small society lotteries.
- 3.6 Section 34 permits have been replaced by licensed premises gaming machine permits and section 16 permits have been replaced by prize gaming permits. The delegated functions need to be updated to account for these changes and also the other administrative functions of the Licensing Authority under the Gambling Act 2005.

Proposed Scheme of Delegation

- 3.7 In the interest of providing a fast and cost-efficient service, it is proposed that the functions delegated to the Licensing Committee under the Gambling Act 2005, are discharged as follows:

Matters to be dealt with	Sub-Committee	Head of Refuse and Environment
Duty to comply with requirement to provide information to Gambling Commission under section 29		All cases
Functions relating to exchange of information under Section 30		All cases
Functions relating to occasional use notices under section 39		All cases
Functions relating to Premises Licences under Part 8	Determination of applications for the grant, variation or transfer of Premises Licences, or applications for Provisional Statements where representations have been received and not withdrawn.	All other matters

	Determination of applications to review Premises Licences.	
Functions relating to temporary use notices under Part 9 of the Act	Decision to serve a counter-notice under section 224 in response to an objection notice that has not been withdrawn	All other matters
Making of an order under section 284 to disapply exempt gaming and the automatic entitlement to provide gaming machines in a premises with a Premises Licence authorised for sale by retail of alcohol for consumption on the premises	All cases	
Designation of Officers as authorised persons under section 304 of the Act		All cases
Instituting of legal proceedings under the provisions set out in section 346		All cases
Exchange of information under section 350 for use in the exercise of functions		All cases
Functions relating to Family Entertainment Centre Gaming Permits under Schedule 10	Refusal of applications where objections are received and not withdrawn	All other matters
Functions relating to the registration with the local authority of small society lotteries under schedule 11	Determination of applications for registration or revocation of registrations in the	All other matters

	circumstance set out in paragraph 47 and 48 of Schedule 11	
Functions relating to club gaming and club machine permits under schedule 12	Determination of applications where objections have been made and not withdrawn. Cancellation of permits under paragraph 21 of schedule 12	All other matters
Functions relating to licensed premises gaming machine permits under schedule 13	Determination of applications for the grant or variation of a permit that will authorise the provision of more than 10 gaming machines. Cancellation or variation of a permit under section 16 of schedule 13	All other matters
Functions relating to Prize Gaming Permits under schedule 14	Refusal of applications where objections are received and not withdrawn	All other matters

3.8 The matters that will be delegated to the Head of Refuse and Environment by virtue of the above table, that are not explicitly stated include:

3.8.1 Functions relating to Premises Licences under Part 8

Maintenance of the public register, grant of applications (save for reviews) where there are no representations, the responsible authority function of the Licensing Authority, the updating of licences following changes of address, the issuing of replacement licences where the original has been lost/stolen/damaged, the revocation of licences for non-payment of annual fees, and

providing notifications to the Police, the Commission and HMRC of the grant, surrender, lapsing or revocation of licences.

3.8.2 Functions relating to temporary use notices under Part 9 of the Act
Acknowledgement of notices, endorsement of notices where no objections are received and maintenance of the register.

3.8.3 Functions relating to Family Entertainment Centre Gaming Permits under Schedule 10
Grant of applications where no objections are received, issuing of replacement permits where the original has been lost/stolen/damaged and maintenance of the register.

3.8.4 Functions relating to the registration with the local authority of small society lotteries under schedule 11
Registration of societies, cancellation of notices for non-payment of annual fees and providing notification to relevant parties of such cancellations.

3.8.5 Functions relating to club gaming and club machine permits under schedule 12
Grant of applications where there are no objections, updating permits following change of names/addresses, issuing of replacement permits if original is lost/stolen/damaged, cancellation of permits for non-payment of annual fees and maintenance of the public register.

3.8.6 Functions relating to licensed premises gaming machine permits under schedule 13
Issuing of replacement permits if original is lost/stolen/damaged, cancellation for non-payment of the annual fee and maintenance of the public register.

3.8.7 Functions relating to Prize Gaming Permits under schedule 14
Issuing of replacement permits if original is lost/stolen/damaged and maintenance of the public register.

4. CONSULTATIONS

4.1 No consultation is required because the Licensing Committee can delegate its functions under the Gambling Act 2005 without subsequent approval from the Civic Affairs Committee or full Council.

5. OPTIONS

5.1 The Committee may resolve to:

5.1.1 Delegate its licensing functions under the Gambling Act 2005 to the Licensing Sub-Committees and the Head of Refuse and Environment as set out in paragraph 3.7 of the report

5.1.2 Delegate licensing functions under the Gambling Act 2005 in any other way.

6. CONCLUSIONS

6.1 Cambridge City Council has a duty to carry out its licensing functions and ensure that an efficient and cost-effective service is provided. The proposed scheme of delegation is within the Committee's powers and will ensure that functions are carried out efficiently and within the statutory timescales.

7. IMPLICATIONS

(a) Financial Implications

The delegation of powers will ensure that a cost-effective service is provided. The licence fees cover the cost of carrying out all licensing functions.

(b) Staffing Implications

Existing staff resources will carry out the proposed delegated functions..

(c) Equal Opportunities Implications

There are no apparent equal opportunities implications.

(d) Environmental Implications

There are no apparent environmental implications.

(e) Community Safety

There are no apparent community safety implications.

BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

- [Gambling Act 2005](#)
- [Guidance Published by the Gambling Commission in May 2009](#)
- The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended
- [Cambridge City Council Constitution](#)

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