

REPORT TO: Regulatory Committee

DATE: 22nd January 2007

REPORTING OFFICER: Council Solicitor

SUBJECT: Gambling Act 2005 - Powers and Duties Review

WARDS: Boroughwide

1. PURPOSE OF REPORT

To adopt certain amendments to the powers and duties of the Regulatory Committee and its subcommittees and to the Scheme of Delegation relating to the Gambling Act 2005 and to make recommendations in respect thereof to the Executive Board.

2. RECOMMENDED: That

(1) the powers and duties of the Regulatory Committee as amended by the Gaming Act 2005 be noted;

(2) the Regulatory Committee sub-delegates its powers and duties under the Gambling Act 2005 to a sub-committee or sub-committees of the Regulatory Committee as set out in Appendix 1;

(3) the Regulatory Committee sub-delegates its powers and duties under the Gaming Act 2005 to the extent set out in Appendix 2; and

(4) the Executive Board be asked to amend the Constitution of the Council accordingly.

3. SUPPORTING INFORMATION

3.1 The Gambling Act 2005 is due to come fully into effect in September 2007 with a number of transitional arrangements coming into effect in April 2007. Members will receive detailed training on the legislation over the coming months.

3.2 The role of the Regulatory Committee under the Gambling Act 2005 is analogous to that under the Licensing Act 2003. Section 154 of the Gambling Act 2005 states that the functions under Part 8 of that Act are

automatically delegated to the licensing committee of every licensing authority established under the Licensing Act 2003.

- 3.3 There are three exceptions to this automatic delegation under the Gambling Act 2005. The functions of the licensing authority under section 166 (resolutions not to issue casino licences) and section 349 (three year licensing policies) may only be exercisable by full Council. Furthermore, although not automatically delegated to the Regulatory Committee Council is authorised to delegate its functions under section 212 (setting fee). However, there is no recommendation to delegate this function in this report.
- 3.4 The Gambling Act 2005 adopts section 10 of the Licensing Act 2003. This has the effect of enabling the Regulatory Committee to arrange for the discharge of any of its functions by a sub-committee or (subject to limitations) by an officer of the licensing authority. It is proposed to put forward a scheme of sub-committee powers and duties and officer delegations analogous to those already in place under the Licensing Act 2003.
- 3.5 The effect of the Gambling Act 2005 on powers and duties of the Regulatory Committee as set out in the Council's Constitution is shown at Appendix 1 to this Report.
- 3.6 The effect of the Gambling Act 2005 on Scheme of Delegation to Officers as set out in the Council's Constitution is shown at Appendix 2 to this Report.

4. POLICY IMPLICATIONS

The basic framework proposed in this report is imposed by law. All other proposals are analogous to existing Council policy.

5. OTHER IMPLICATIONS

There are no other implications arising out of this report.

6. LIST OF BACKGROUND PAPERS UNDER SECTION 100D LOCAL GOVERNMENT ACT 1972

This report is based on the Gambling Act 2005 and the written responses to the consultation exercise. In addition the DCMS and LACORS web-sites have provided background information.

REGULATORY COMMITTEE

Except where delegated to Sub-Committees or to officers in respect of individual applications and particular cases:-

Licensing matters within the scope of the Licensing Act 2003 and Gambling Act 2005 – qua Licensing Committee

1. To act as the Council's Licensing Committee for the purposes of Section 6 Licensing Act 2003 (including its application to the Gambling Act 2005) and to discharge all of the licensing functions of the Council which are not reserved by statute for determination only by full Council in accordance with Section 7 Licensing act 2003 and section 154 Gambling Act 2005.

Licensing matters not within the scope of the Licensing Act 2003 or the Gambling Act 2005 – qua "Ordinary" Regulatory Committee

2. To be responsible for determining and implementing the Council's policies in connection with the grant, variation, suspension or revocation of licences, permits or consents.
3. To decide upon individual applications relating to the grant, variation suspension or revocation of licences, permits or consents.
4. To take appropriate action in connection with breaches of conditions attached to licences, permits, consents or registrations.
5. To exercise the regulatory powers and duties of the Council in respect of safety of sports grounds under the Safety of Sports Grounds Act 1975.

General

6. To pursue the principles and practice of Best Value at all times.
7. To consult the public where appropriate in relation to matters which fall within the terms of reference and powers and duties of the Committee.
8. To ensure equality of opportunity in the delivery of services by the Committee.
9. To produce an annual report on matters lying within the Committee's remit.

Regulatory Committee Sub-Committees – Licensing matters within the scope of the Licensing Act 2003 but excluding matters within the scope of the Gambling Act 2005

1. To determine an application for a personal licence if an objection is made.
2. To determine an application for a personal licence with unspent convictions.
3. To determine applications for premises licence/club premises certificate if a representation is made.
4. To determine an application for a provisional statement if a representation is made.
5. To determine an application to vary premises licence/club premises certificate if a representation is made.
6. To determine an application to vary designated premises supervisor if there is a police objection.
7. To determine an application for a transfer of premises licence if there is a police objection.
8. To determine applications for interim authorities if there is a police objection.
9. To determine applications to review premises licences/club premises certificates.
10. To object, if necessary, when the local authority is a consultee and not the relevant authority considering the application.
11. To determine a police objection to a temporary event notice.

Regulatory Committee Sub-Committees – Licensing matters within the scope of the **Gambling Act 2005 but excluding matters within the scope of the **Licensing Act 2003****

1. To determine an application for a premises licence in respect of which representations have been made under section 161 (and not withdrawn),
2. To determine an application for the variation of a premises licence in respect of which representations have been made under section 161 as applied by section 187 (and not withdrawn),
3. To determine an application for transfer following representations by the Gambling Commission,
4. To determine an application for a provisional statement under section 204 in respect of which representations have been made under section 161 as applied by section 204 (and not withdrawn), and
5. To determine a review of a premises licence under section 201.

(Matters relating to the Gambling Act 2005)

182. To discharge all of the functions of the statutory licensing committee under the Gambling Act 2005 other than:
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- (a) the determination of an application for a premises licence in respect of which representations have been made under section 161 (and not withdrawn),
 - (b) the determination of an application for the variation of a premises licence in respect of which representations have been made under section 161 as applied by section 187 (and not withdrawn),
 - (c) the determination of an application for transfer following representations by the Gambling Commission,
 - (d) the determination of an application for a provisional statement under section 204 in respect of which representations have been made under section 161 as applied by section 204 (and not withdrawn), and
 - (e) a review of a premises licence under section 201.
183. Where matters are reserved to the Council or the statutory Licensing Committee or Licensing Sub-Committee of the Council, to determine all matters preparatory to or incidental to such matters (including, by way of illustration only, the determination of whether relevant representations have been made).
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