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**GAMBLING ACT 2005 DELEGATION OF POWERS**

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**Responsible Cabinet Member - Councillor Veronica Copeland,  
Consumer and Environmental Services Portfolio**

**Responsible Director - John Buxton, Director of Development and Environment**

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**Purpose of Report**

1. The purpose of the report is to propose the delegation of powers to the Licensing Committee in relation to small lotteries and gaming machines and/or gaming in alcohol licensed premises.

**Background**

2. The Gambling Act 2005 gives responsibility to the Gambling Commission (formerly the Gaming Board) for the issue of Operating Licences in respect of businesses offering gambling and also for the issue of Personal Licences for those employed in the business of gambling eg croupiers, betting shop and bingo hall managers etc. Local Authorities are to be given responsibility for the licensing of premises used for gambling eg betting shops and bingo halls etc and the issue of permits for gaming.
3. On 23 November 2006 Council approved the Statement of Principles in relation to the Gambling Act 2005. This document was a statutory requirement under the 2005 Act. In addition Council also approved the delegation of the power to set fees to the Director of Development and Environment.

**Outcome of Consultation**

4. The contents of this report are not subject to consultation as they relate only to routine statutory licensing functions.

**Information and Analysis**

5. With the exception of the power to pass a resolution not to issue Casino Licences and the power to approve the Gambling Policy (Statement of Principles) the 2005 Act specifically delegates most Local Authority functions to the Licensing Committee set up to deal with the Licensing Act 2003. This Committee will deal with contested applications and reviews of problem premises.
6. The primary legislation reflected some small anomalies in relation to delegation of powers but it was anticipated that the regulations to accompany the legislation would address these matters. It has now become clear that there are two matters that have not been resolved as

follows:

- (b) The authority to grant/refuse/revoke or cancel the registration of small lotteries.
  - (b) The authority to remove the right of alcohol licensed premises to two gaming machines and/or the right to have gaming on such premises.
7. In relation to (a) above the legislation refers to the Local Authority rather than the Licensing Authority and in (b) there is no automatic delegation to the Licensing Committee. A debate at national level has ensued as to whether such authority would rest with the Executive (as per Section 13 of the Local Government Act 2000) or with Council. The advice from Department of Culture, Media and Sports (DCMS) is that this is a function of Council.
8. Given that a small society lottery is required for fundraising raffles etc and that all alcohol licensed premises are entitled to two gaming machines it may be inappropriate for such matters to have to be referred to Council for what will be routine decisions. It is, therefore, proposed that these functions are delegated to the Licensing Committee, set up to deal with the Licensing Act 2003 who, in turn, will be invited to delegate most of these authorities to officers.

### **Legal Implications**

9. The Borough Solicitor has considered this report for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

### **Section 17 of the Crime and Disorder Act 1998**

10. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

### **Council Policy Framework**

11. The issues contained within this report represent a change to Council policy in that this is a new statutory authority setting out how applications for small society lotteries and cancellation of specific gaming permits will be considered by the Council.

### **Conclusion**

12. The functions referred to in this report relate to routine licensing applications that are currently dealt with by the Licensing Committee and/or Officers under existing legislation. There is nothing in the new legislation to suggest that any change is necessary.

## **Recommendation**

13. It is recommended that:

- (a) The authority to grant, refuse, revoke or cancel small society lottery registrations be delegated to the Licensing Committee set up to deal with the Licensing Act 2003.
- (b) The authority to remove the right to two gaming machines and/or the right to have gaming on alcohol-licensed premises be delegated to the Licensing Committee set up to deal with the Licensing Act 2003.

## **Reasons**

14. The recommendations are supported to ensure effective and timely decision making by the Council with respect to:

- (a) The statutory requirement to grant, refuse, revoke or cancel small society lotteries.
- (b) The power to remove the automatic right to two gaming machines and/or gaming on alcohol licensed premises.

**John Buxton**  
**Director of Development and Environment**

## **Background Papers:**

The Gambling Act 2005

Pam Ross : Extension 2647