

STOCKTON-ON-TEES BOROUGH COUNCIL

CABINET RECOMMENDATIONS

PROFORMA

Cabinet Meeting22nd November 2007

1. Title of Item/Report

The Gambling Act 2005 - Delegation of Powers

2. Record of the Decision

Members considered a report that proposed the delegation of powers to the Licensing Committee in relation to small lotteries; gaming machines and/or gaming in alcohol licensed premises; and occasional use notices; and to delegate the authority to appoint 'authorised officers'; prosecution of offences; the duty to provide the Gambling commission with information and to set premise licence fees under the provisions of the Gambling Act 2005 to the Corporate Director of Development and Neighbourhood Services.

It was noted that on 30th November 2006 Council approved the Statement of Principles in relation to the Gambling Act 2005 and revisions to the Scheme of Delegations.

It was explained that with the exception of the powers to pass a resolution not to issue Casino licences and the power to approve the Gambling Policy (Statement of Principles), the 2005 Act specifically delegated most Local Authority functions to the Licensing Committee set up to deal with the Licensing Act 2003. The Licensing Committee would deal with contested applications and reviews of problem premises.

Members were advised that 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. Members were informed that there were matters that had not been resolved and these were as follows: -

(a) 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.

(c) Functions relating to the use of occasional use notices for track

betting

(d) Appointment of 'authorised officers'

(e) Prosecution of offences

(f) The duty to provide the gambling Commission with information

(g) The power to set premise licence fees

Members were informed that in relation to (a) above, the legislation referred to the Local Authority rather than the Licensing Authority and in (b) to (g) there was no automatic delegation to the Licensing Committee. A debate at national level had 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 the Department of Culture Media and Sports (DCMS) was that these were functions of Council.

It was explained that given that a small society lottery registration was required for fundraising raffles etc, and that all alcohol licensed premise were entitled to two gaming machines, and occasional use notices could not be refused if statutory procedure was followed it might be inappropriate for such measures to be referred to Council for what would be routine decisions and which were, under previous legislation, determined by officers and/or the Licensing Committee. It was, therefore, proposed that the functions be delegated to the Licensing Committee, set up to deal with the Licensing Act 2003 who, in turn, would be invited to delegate most of these authorities to officers.

Members were informed that the Corporate Director of Development and Neighbourhood Services currently had, under the Council's Scheme of Delegation, authorisation to authorise officers to act generally and to institute legal proceedings under legislation that was within the remit of his role. It was however, considered appropriate to provide him with specific authorisation to appoint 'authorised persons' as defined in the Gambling Act and to prosecute for offences under the Act in order to withstand any legal challenges that could arise as a result of any such authorised person carrying out their statutory functions under the Act.

Providing information to the Gambling Commission was an administrative task and it was therefore considered appropriate for this function to be delegated to officers.

It was noted that prior to this amended advice being received, the Licensing Committee had already delegated the setting of fees to officers.

RECOMMENDED to Council that:-

1 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.

2 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.

3 Functions relating to occasional use notices be delegated to the Licensing Committee set up to deal with the Licensing Act 2003

4 The Corporate Director of Development and Neighbourhood Services be authorised to appoint 'authorised persons' under the Gambling Act 2005.

5 The Corporate Director of Development and Neighbourhood Services be authorised to institute legal proceedings in respect of offences under the Gambling Act 2005

6 The Corporate Director of Development and Neighbourhood Services be authorised to provide the Gambling Commission with information as required under the Gambling Act 2005

7 The Corporate Director of Development and Neighbourhood Services be authorised to set premise licence fees.

3. Reasons for the Decision

The reasons for the recommendations are 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 lottery registrations

(b) the power to remove the automatic right to two gaming machines and/or gaming on alcohol licensed premises

(c) the statutory procedures relating to the service of occasional use notices

(d) the appointment of appropriate officers for the purpose of exercising statutory functions under the Act.

(e) the prosecution of offences under the Act

(f) providing the Gambling Commission with information as and when required.

(g) the setting of premise licence fees

4. Alternative Options Considered and Rejected

None

5. Declared (Cabinet Member) Conflicts of Interest

None

6. Details of any Dispensations

Not Applicable

7. Date and Time by which Call In must be executed

Not applicable.

Proper Officer
26 November 2007