

Crawley Borough Council

	Report No:ES/174	B
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Report to Licensing Committee

6 September 2006

Gambling Act 2005 – Constitutional Amendments

1. Summary

- 1.1 The Council needs to amend its Constitution in anticipation of the implementation of the Gambling Act 2005 and to amend the name of the Licensing Act 2003 Applications Sub Committee and its delegated functions, together with those of the Head of Environmental Services.

2. Recommendations

- 2.1 That the Council be recommended that the Constitution be amended as follows:-

- (a) The Licensing Act 2003 Applications Sub Committee to be renamed the 'Licensing Sub Committee';
- (b) The powers and duties of the Sub Committee and of the Head of Environmental Services as set out in Part 3 of the Council's Constitution to be amended to include the delegation set out in Appendix 1 to this report;
- (c) The setting of fees in connection with functions appertaining to the Gambling Act (to the extent that the Council has authority so to do) to be the responsibility of the Licensing Committee;

such amendments to take effect from the date on which the Council assumes its responsibilities under the Gambling Act 2005

ANGELA TANNER
Head of Environmental Services

3. Background

- 3.1 The Gambling Act 2005 received Royal Assent on 7 April 2005. The Act will elicit wholesale change in the manner in which gambling is licensed, bringing with it new responsibilities for licensing authorities.
- 3.2. The major aspects of the Act are simplified to provide a summary below:

Gambling operators will require an operating licence and any relevant personal licences from the Gambling Commission, the new national gambling regulator.

They can then obtain a premises licence from their relevant Licensing Authority.

Decisions by both bodies will be based upon three licensing objectives.
- 3.3. Licensing Authorities are required by the Act to produce a Statement of Gambling Policy which details how the authority intends to exercise its functions under the Act and the principles it intends to apply.
- 3.4. The draft Statement of Principles was approved by the Executive at its meeting on 12 July 2006 and is now out for consultation.
- 3.5. Following consultation, the Council will be asked to adopt the Statement of Gambling Policy at its meeting on 20 December 2006. Licensing Authorities will then be required to begin accepting new applications under the Act by 31 January 2007 and to have fully implemented the Act by 1 September 2007.

4. The Licensing Sub Committee

- 4.1. Amendments need to be made to the Constitution so that everything is in place when the Council assumes its responsibilities under the new Act.
- 4.2 It is therefore proposed that the Licensing Act 2003 Applications Sub Committee be renamed 'the Licensing Sub Committee'.
- 4.3. It is further proposed that, in addition to the functions arising from the Licensing Act 2003 already delegated to the existing Sub Committee, additional functions be delegated to the Sub Committee and to the Head of Environmental Services arising from the implementation of the Gambling Act 2005. The additional delegation scheme is as set out in Appendix 1 to this report.
- 4.4. The delegation of functions, where appropriate, will help the Council to provide a speedy, efficient and cost-effective service.
- 4.5. The Sub Committee of fifteen members will continue to operate on the basis that three members will be called upon to determine any application as is currently the case. The heavy workload originally experienced on the implementation of the Licensing Act appears to have declined and it is

therefore anticipated that the Sub Committee should now have the capacity to take on this new area of work.

5. Setting of fees

- 5.1. Gambling Commission Guidance states that the Licensing Authority can delegate decisions relating to the setting of fees to the Licensing Committee but there is no automatic delegation, so each authority must decide its own approach.
- 5.2. It is, therefore, proposed that the Council should be asked to amend the Constitution to provide that the setting of fees in connection with functions appertaining to the Gambling Act (to the extent that the Council has authority so to do) shall be the responsibility of the Licensing Committee. This will be consistent with the setting of fees for all other Licensing Committee functions.
- 5.3. It should be noted that premises licence fees will be set by the Secretary of State via a series of bands with a prescribed maximum for each band. Licensing authorities must select the precise fee from within the bands, limited to cost recovery.
- 5.4. It should also be noted that this approach will require a minor amendment to the Appendix to the draft Gambling Policy Statement when it is adopted. The Appendix currently shows the setting of fees as the responsibility of the Executive which would not accord with the Guidance.

6. Background Papers

Gambling Act 2005
Draft Statement of Gambling Policy
Report ES/168 to the Executive on 12 July 2006

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RESPONSIBILITY FOR COUNCIL FUNCTIONS LICENSING

The powers and duties of the Council relating to its functions as the Licensing Authority under the Gambling Act 2005 are delegated to the Licensing Committee, or otherwise as set out below save that approval of the Council's Statement of Gambling Policy and any amendments to or revision thereof shall be carried out by the Council. The Council also has the power to resolve not to issue casino premises licences within the Borough under Section 166 of the Gambling Act 2005.

Membership:- Councillors:

Functions of the Licensing Committee	Delegation of functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)	Delegation of functions (concurrently with the Licensing Committee and Licensing Sub-Committee)
1.	Determination of applications for premises licences where representations have been received and not withdrawn	<p><u>The following function is delegated to the Head of Environmental Services:-</u></p> <p>The determination of applications for premises licences where no representations have been received or where representations have been withdrawn.</p>
2.	Determination of applications for the variation of a licence where representations have been received and not withdrawn	<p><u>The following function is delegated to the Head of Environmental Services:-</u></p> <p>The determination of applications for the variation of a licence where no representations have been received or where representations have been withdrawn.</p>
3.	Determination of applications for a transfer of a licence where representations have	<p><u>The following function is delegated to the Head of Environmental Services:-</u></p>

Functions of the Licensing Committee	Delegation of functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)	Delegation of functions (concurrently with the Licensing Committee and Licensing Sub-Committee)
	been received from the Commission.	The determination of applications for a transfer of a licence where no representations have been received from the Commission
4.	Determination of applications for a provisional licence where representations have been received and not withdrawn	<p><u>The following function is delegated to the Head of Environmental Services:-</u></p> <p>Determination of applications for a provisional licence where no representations have been received or where representations have been withdrawn.</p>
5.	Review of a premises licence.	
6.	Determination of applications for club gaming/club machine permits where representations have been received and not withdrawn	<p><u>The following function is delegated to the Head of Environmental Services:-</u></p> <p>Determination of applications for club gaming/club machine permits where no representations have been received or where representations have been withdrawn.</p>
7.	Cancellation of applications for club gaming/club machine permits.	
8.		<p><u>The following function is delegated to the Head of Environmental Services:-</u></p> <p>Determination of other permits under the Gambling Act 2005.</p>

Functions of the Licensing Committee	Delegation of functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)	Delegation of functions (concurrently with the Licensing Committee and Licensing Sub-Committee)
9.		<p><u>The following function is delegated to the Head of Environmental Services:-</u></p> <p>Cancellation of licensed premises gaming machine permits.</p>
10.		<p><u>The following function is delegated to the Head of Environmental Services:-</u></p> <p>Consideration of temporary use notice</p>
11.	Decision to give a counter notice to a temporary use notice.	
12.		<p><u>The following function is delegated to the Head of Environmental Services:-</u></p> <p>Determination as to whether a person is an Interested Party.</p>
13.		<p><u>The following function is delegated to the Head of Environmental Services:</u></p> <p>Determination as to whether representations are relevant.</p>
14.		<p><u>The following function is delegated to the Head of Environmental Services:</u></p> <p>Determination as to whether a representation is frivolous, vexatious or repetitive</p>