

CITY COUNCIL – 11 SEPTEMBER 2006

REPORT OF CHAIR OF THE LICENSING COMMITTEE

TERMS OF REFERENCE OF THE LICENSING COMMITTEE - CHANGE TO THE CONSTITUTION

1 SUMMARY

This report proposes changes to the terms of reference of the Licensing Committee within the City Council's Constitution. Those changes relate to the determination of applications for gaming and gaming machines.

2 RECOMMENDATIONS

IT IS RECOMMENDED that the proposed changes to the Constitution as detailed in the appendix to this report be approved.

3 BACKGROUND

- 3.1 The Council has and will continue to have responsibility for determining applications to grant, renew and refuse permits for gaming and gaming machines in premises which are not licensed for the sale of alcohol. This function is within the remit of the Regulatory Committee.
- 3.2 On 24 November 2005 changes to the licensing of gaming and gaming machines in pubs and other alcohol licensed premises under the Lotteries and Amusements Act 1976 and the Gaming Act 1968 came into effect as a result of the Licensing Act 2003 (referred to as "the 2003 Act" in this report). The determination of such applications had previously been the responsibility of the Magistrates' Court but in November 2005 that function transferred to the City Council as licensing authority. The legislation made it the function of the Licensing Committee. By its decision of 14 November 2005, the Licensing Committee resolved that the

determination of certain specified applications be delegated to senior officers. It further resolved that applications which fell outside those specified, or were for more than two amusements with prizes machines pursuant to section 34 Gaming Act should be referred to a Licensing Panel for determination.

- 3.3 Under the Council's current Constitution, a "mixed" application, which relates in part to premises which are licensed for the sale of alcohol and in part to premises not so licensed, will fall under both of the regimes described at paragraphs 3.1 and 3.2 above. This situation has arisen in relation to an application for a permit for gaming machines at a leisure facility in the City Centre. On the ground floor of the premises, gaming machines are proposed to be situated outside the area which is licensed for the sale of alcohol, and this aspect of the application would therefore fall to be determined by the Regulatory Committee as described in paragraph 3.1 above. On the first floor, gaming machines are proposed to be situated within the area licensed for the sale of alcohol, so this aspect of the application would be dealt with by the Licensing Committee, Licensing Panel or by senior licensing officers under delegated powers as described in paragraph 3.2 above. This is unsatisfactory from all points of view, and prevents the determining body from being able to make a comprehensive assessment of the application for the premises as a whole.

4 PROPOSALS

- 4.1 This report seeks to address the anomaly described in paragraph 3.3 of this report where a mixed application for gaming or gaming machines is received. Whilst such applications are unlikely to be numerous, the difficulty in dealing effectively with those that do arise and warrants steps being taken to rationalise the decision-making process. It is therefore proposed that responsibility for determining that part of a mixed application which relates to non alcohol licensed premises be transferred from the Regulatory Committee to the Licensing Committee.

4.2 Approval will then be sought from the Licensing Committee for the discharge of its new function in the same way as it would deal with applications in respect of wholly alcohol licensed premises (described in paragraph 3.2 above) namely either being dealt with by the Licensing Committee itself, being referred to a Licensing Panel or being delegated to a Senior Licensing Officer.

5 TIMESCALE FOR IMPLEMENTATION OF PROPOSALS

5.1 If the recommendation in this report is approved, a report seeking approval for the recommendation referred to at paragraph 4.2 will be taken to the next Licensing Committee meeting on 27 November 2006.

5.2 If approval to the recommendation at paragraph 4.2 is given by the Licensing Committee, any mixed applications which fall to be determined after that date can be determined either by that Committee or by a Licensing Panel or by a Senior Licensing Officer under delegated powers in respect of the whole premises.

6 FINANCIAL IMPLICATIONS

None

7 LEGAL IMPLICATIONS

Section 7(3) of the 2003 Act permits the Council as licensing authority to arrange for the functions proposed by this report to be carried out by the Licensing Committee, being functions relating to its licensing functions under the 2003 Act.

8 BEST VALUE

Implementation of the proposals in this report will contribute to the delivery of a more effective service to customers applying for gaming and gaming machines, by providing a single decision-making forum for mixed premises in place of the existing split functions.

9 List of background papers other than published works or those disclosing confidential or exempt information

None

10 Published documents referred to in compiling this report

Report of Corporate Director of City Development to Licensing Committee 14 November 2005 entitled "Applications for Gaming in Premises Licensed for Alcohol"

Minute of Licensing Committee dated 14 November 2005

**COUNCILLOR DEREK CRESSWELL
CHAIR OF THE LICENSING COMMITTEE**

APPENDIX - CHANGES TO COUNCIL CONSTITUTION

Location in Constitution	Current wording in Constitution	Proposed wording in Constitution (revisions in bold)
Appendix 6(c) – Terms of Reference of Licensing Committee	“To undertake those functions of the Licensing Authority as prescribed by Section 7 of the Licensing Act 2003”	“To undertake those functions of the Licensing Authority as prescribed by Section 7(1) and 7(3) of the Licensing Act 2003”
Appendix 6(c) – Terms of Reference of Licensing Committee	“The Committee should carry out its functions with a view to promoting the licensing objectives”	“The Committee should carry out its functions under Section 7(1) of the Licensing Act 2003 with a view to promoting the licensing objectives”
Appendix 6(c) – Terms of Reference of Licensing Committee – after “iv *the provision of late night		Insert the following:- “To determine applications for permits (a) for amusement machines under Section 34 of and Schedule 9 to

refreshment”		(b) the Gaming Act 1968; and for amusements with prizes under Section 16 of and Schedule 3 to the Lotteries and Amusements Act 1976 where the applications relate in part to premises licensed to supply alcohol for consumption on the premises and in part to premises not so licensed.”
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