

REPORT OF CORPORATE DIRECTOR OF CITY DEVELOPMENT

APPLICATIONS FOR GAMING IN PREMISES LICENSED FOR ALCOHOL

1.0 SUMMARY

This is a report to outline changes to the approval process for gaming machines, low stake gaming and permits to play certain games and lotteries for prizes commercially within specified money limits in premises licensed for the supply of alcohol for consumption on the premises in accordance with the Licensing Act 2003.

This report is requested to be considered as an urgent item as delegations for new powers need to be agreed before the commencement date of 24 November and there is no alternative suitable meeting prior to that date.

2.0 RECOMMENDATIONS

It is recommended

- (1) that the Service Manager, Food and Licensing , Licensing Officer, and Senior Assistant Licensing Officer be authorised:-
 - (a) to grant, renew, and refuse, amusement with prizes permits in accordance with the Gaming Act 1968, section 34 and Schedule 9 and the Lotteries and Amusements Act 1976, section 16;
 - (b) to make, revoke, and vary orders in accordance with section 6 of the Gaming Act authorising games of equal chance gaming (eg bingo, bridge) where no levy for taking part or on stakes or winnings is made other than where it is requested that conditions or restrictions be imposed on the playing of cribbage and dominoes; and
- (2) that the Committee determine:-
 - (a) whether any limit is to be imposed on the number of amusement with prizes machines which may be granted under delegated powers in accordance with Section 34 of The Gaming Act, in pubs and other premises licensed for alcohol and if so;
 - (b) whether applications outside of these delegations should be considered either by licensing panels or the full licensing committee.

3.0 BACKGROUND

- 3.1 With effect from 24 November 2005 changes to the licensing of gaming and gaming machines in pubs and other alcohol licensed premises will be made as a result of the Licensing Act 2003 coming into force. Up until 24 November a 2 tier system has been in operation with District Councils having the responsibility for issuing such permits in relation to premises which are not licensed for the sale of alcohol and the Magistrates Court dealing with permits for those premises which were.

3.2 The Council's current functions in respect of premises not licensed for the sale of alcohol, are and shall remain within the remit of the Regulatory Committee. However with effect from 24 November 2005 these functions transfer to the Licensing Authority in relation to premises licensed for the sale of alcohol, and the legislation makes them the function of the Licensing Committee. Both committees will therefore have responsibility for the application of the relevant legislation until the Gambling Act 2005 is brought into force (probably in 2007). However in effect most of these functions are anticipated to be carried out by the Licensing team using delegated powers.

3.3 The main changes concern the grant of permits under section 34 of the Gaming Act 1968 (fruit machines), orders under Section 6 of the Gaming Act 1968 authorising low stake gaming (such as bingo and bridge) and the grant of permits under Section 16 of the Lotteries and Amusements Act 1976 for commercial amusements. All existing permits and orders issued by the Magistrates will remain in force and are automatically transferred. The changes do not affect Clubs which will continue to apply to the magistrates for any permits they require.

3.4 **Gaming Machines, Gaming Act, section 34**

3.4.1 Whilst the Council (in relation to premises not licensed for the sale of alcohol) has power to pass a resolution that it will not grant permits for specified classes of premises the Licensing Authority does not have a similar power in relation to alcohol licensed premises and nor can conditions be attached to permits. Whilst having a wide discretion as to whether to grant or reject applications, Authorities must have lawful reasons for rejecting an application.

3.4.2 Local Authorities will not assume any enforcement powers as a result of the changes, but breaches of the terms of the permits can be reported to the Police by Council Officers and the licensing team includes two compliance officers who liaise closely with the Police.

3.5 **Gaming Act 1968, Section 6 orders**

3.5.1 Licence holders are automatically entitled to play dominoes and cribbage without approval, but other games may be played by order. Such games must amount to equal chance gaming, and no charges for taking part or levies on stakes or winnings may be made. It is proposed that the power to make orders of this type is delegated to Officers.

3.5.2 Licensing Authorities also have the power to impose conditions or restrictions by order concerning the playing of all games (including cribbage and dominoes) to ensure that high stake gaming does not take place or that gaming becomes the main inducement for attending the premises, and it is proposed that Members determine requests for orders concerning gaming of that nature.

3.6 **Lotteries and Amusements Act, section 16 – Prize gaming permits**

3.6.1 Section 16 permits allow the playing of certain games and lotteries for prizes commercially within specified money limits.

3.6.2 Licensing Justices currently issue permits to those premises licensed for the sale of alcohol with the exception of hotels and restaurants, (which do not qualify). After 24 November 2005 this exemption will be removed and hotels and restaurants will be able to apply for permits to the Licensing Authority, together with any other premises licensed for the consumption of alcohol on the premises.

4.0 PROPOSALS

4.1 This Council already issues permits in accordance with the Gaming Act 1968 and Lotteries and Amusements Act 1976 for gaming to non-liquor licensed premises and the granting of such permits is delegated to Officers. This report seeks to establish a similar arrangement for the new function, the main areas of difference being:

- Current arrangements for non-alcohol premises are low stake and low prize machines except where over 18's only are allowed, then all-cash machines with a maximum payout of £25 are allowed – the Council cannot impose conditions on the permit and these arrangements are not changing. The main type of machine in alcohol premises will be the £25 all cash payout machine.
- The Gaming Act does not impose any upper limit on the number of machines a pub is permitted, but the good practice guide used by the Licensing Justices currently allows two machines to be granted without the need for a hearing and the Department of Culture Media and Sport recommends that local authorities dispense with the need for a hearing where the application is for no more than two machines. In addition, when the Gambling Act 2005 comes into force such premises will be entitled to have two such machines subject to serving the Licensing Authority with a notification. It is not recommended that a hearing automatically needs to take place if more than two machines are applied for as each application should be treated on its' own merits and Authorities have the power to impose a limit to the number of machines at a premises on a case by case basis.

4.2 The issuing of permits in line with the proposed delegations will fit with other similar decision making arrangements within the Licensing team and will allow applications to be dealt with administratively and reduce the amount of time taken to process an application.

5.0 TIMESCALE FOR IMPLEMENTATION OF PROPOSALS

24 November 2005

6.0 FINANCIAL IMPLICATIONS

Copies of current permits and data regarding existing permits has been requested from the Courts, and it will then be possible to identify the numbers of applications which can be expected but is expected to be in the region of 300 per year generating approximately £11,200 in income. In the two years prior to the proposed implementation of the Gambling Act 2005 (Autumn 2007), the cost of a permit lasting for three years is £32, and will only be received in respect of new applicants and renewals of existing permits which are due to expire after that date. On the implementation of the Gambling Act 2005 alcohol licensed premises will be entitled to two machines, simply by notifying the Council, and will only need to make formal application if more machines are requested, so little or no additional income is anticipated, although staff resources will be needed to monitor the notifications and process any new applications which it is anticipated will be absorbed within the Licensing team.

7.0 LEGAL IMPLICATIONS

These have been incorporated into the report.

8.0 EQUAL OPPORTUNITIES IMPLICATIONS

None.

9.0 CRIME & DISORDER IMPLICATIONS

Licensing of machines for gaming is an opportunity for the City Council to work in partnership with the Police to reduce the risk of crime occurring at licensed premises, having regard to the effect of the proposals on both customers and residents.

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

None.

12.0 Published documents referred to in compiling this report

None.

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