

**16 APRIL 2006**

**REPORT OF CORPORATE DIRECTOR CITY DEVELOPMENT  
GAMBLING ACT 2005 - DELEGATIONS**

**1.0 SUMMARY**

The Gambling Act makes certain functions the direct responsibility of the Licensing Committee. A majority of these functions can be further delegated to officers and this report seeks approval for a series of delegations to try and ensure that each function is carried out at an appropriate level so as to ensure efficient and effective service provision. The details are listed in appendix 1.

**2.0 RECOMMENDATIONS**

2.1 IT IS RECOMMENDED that Committee approve the delegations listed in appendix 1.

**3.0 BACKGROUND**

3.1 With a few exceptions The Gambling Act delegates the Councils functions as a licensing authority to the Licensing Committee. Most of these functions may be delegated further to either a sub-committee, (licensing panel,) or officers.

3.2 Officers have identified the tasks that are largely administrative or which they feel appropriate for delegation to suitably identified and experienced officers. In doing so officers have taken into account the statutory guidance issued by the Gambling Commission.

**4.0 PROPOSALS**

4.1. The delegations recommended for approval are shown in appendix 1.

**5.0 FINANCIAL IMPLICATIONS**

5.1 The fees for licensing under the Gambling Act 2005 are the subject of a separate report on the agenda. The fees are set at the level required to recover the costs associated with the licensing regime.

**6.0 LEGAL IMPLICATIONS**

It is important to ensure that an accurate and appropriate series of delegations exist so as to facilitate the proper and efficient functioning of the Authority. The delegations suggested in this report are within the Committee's powers.

**7.0 EQUAL OPPORTUNITIES IMPLICATIONS**

None

**8.0 BEST VALUE**

Delegating routine tasks to officers will lead to cost savings in the regime and in turn to lower licence fees.

**9.0 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION**

None

**10.0 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT**

City Council report New Licensing Committee Arrangements 24 January 2005

Gambling Act 2005

**11.0 COPYRIGHT ACKNOWLEDGEMENT**

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**BARRY HORNE  
CORPORATE DIRECTOR  
CITY DEVELOPMENT**

Lawrence House, Talbot Street, Nottingham NG1 5NT

Contact Officer: Tim Coulson  
Telephone number: 9156781  
email: [tim.coulson@nottinghamcity.gov.uk](mailto:tim.coulson@nottinghamcity.gov.uk)  
Date: 12 March 2007

**Gambling Act 2005  
Proposed Delegations**

**1. Administrative matters**

<b>Matter to be Delegated</b>	<b>Appropriate Officer(s) to whom power is to be delegated</b>
<p>The power to set fees under any regulations made under S212 of the Gambling Act 2005.</p>	<p>Corporate Director of City Development and the Services Director, Environment and Public Protection subject to the provisions of that section and such regulations.</p>
<p>The power of the Licensing Authority</p> <ul style="list-style-type: none"> <li>a. as a responsible authority, to make representations under Part 8 of the Act</li> <li>b. to propose to attach a condition to a premises licence in accordance with section 169(1)(a) of the Act in addition to the mandatory or default conditions</li> <li>c. to propose the exclusion of a default condition from a premises licence under S169(1)(b) of the Act</li> <li>d. as a responsible authority, to request a review of a premises licence under sections 197 or 200 of the Act</li> <li>e. to give a notice of objection to a temporary use notice under S221 of the Act.</li> </ul>	<p>Head of Food and Licensing and the Services Director, Environment and Public Protection.</p>
<p>The power to</p> <ul style="list-style-type: none"> <li>a. determine that any representations received under Part 8 of the Act are vexatious, frivolous, or certainly will not influence the Authority's determination of an application</li> <li>b. reject all or part of any application for a review of a premises licence in accordance with Section 198 of the Act</li> <li>c. revoke a premises licence for non-payment of the annual fee (s193)</li> <li>d. serve notification of intended refusal of any of the following:- <ul style="list-style-type: none"> <li>i Family Entertainment Centre Gaming Machine</li> </ul> </li> </ul>	<p>The Senior Assistant Licensing Officer (General Licensing), the Team Leader (General Licensing), the Head of Food and Licensing, and to the Services Director, Environment and Public Protection.</p>

<p>Permit (Sch 10 para 10)</p> <ul style="list-style-type: none"> <li>ii Prize Gaming Permits (Sch 14 para 11)</li> <li>iii Licensed Premises Gaming Machine Permits (Sch 13 para 6)</li> </ul> <p>and also, in the latter case, notice of intention to grant the application but for a smaller number of machines than specified and/or a different category of machines from that specified in the application.</p> <ul style="list-style-type: none"> <li>e. serve notification of lapse of a Family Entertainment Centre Gaming Machine Permit (Sch 10 para 14 and 15 (1)(b))</li> <li>f. serve notice of intention to cancel or vary any of the following:- <ul style="list-style-type: none"> <li>i Club Gaming permit or Club Gaming Machine permit (Sch 12 para 21)</li> <li>ii Licensed Premises Gaming Machine permits (Sch 13 para 16)</li> </ul> </li> <li>g. create and amend the Authority's application procedures in relation to applications for the following in accordance with any relevant legislation:- <ul style="list-style-type: none"> <li>i. Family Entertainment Centre Gaming Machine Permits (sch10 paras 5 and 7)</li> <li>ii. Licensed Premises gaming Machine Permits (Sch 13 para 2)</li> <li>iii. Prize Gaming Permits (Sch 14 paras 6 and 8)</li> </ul> </li> </ul>	
<p>The power to appoint authorised persons under s 304 of the Act</p>	<p>Head of Food and Licensing, and to the Services Director, Environment and Public Protection.</p>
<p>The Power to issue formal cautions and/or Instruct Legal Services to commence and defend proceedings under the Gambling Act 2005, its subordinate legislation, (and any legislation which may subsequently amend or replace it)</p>	<ul style="list-style-type: none"> <li>a) The Senior Assistant Licensing Officer (General Licensing) and the Team Leader (General Licensing)</li> <li>b) The Head of Food and Licensing; Public Health, Pollution and Envirocrime; Health and Safety; and</li> <li>c) The Services Director, Environment and Public Protection.</li> </ul>
<p>The power to commence and defend proceedings both criminal and</p>	<p>The Director of Legal Services and the Legal Services Managers.</p>

civil under The Gambling Act 2005 and its subordinate legislation, (and any legislation which may subsequently amend or replace it)	
<p>The power to administer and carry out all other functions of the Licensing Authority capable of delegation under The Gambling Act 2005 and its subordinate legislation, (and any legislation which may subsequently amend or replace it,) which is not otherwise delegated to the Authority, The Licensing Committee or its Sub Committees (“Panels”). This includes for example, (but is not limited to):-</p> <ul style="list-style-type: none"> <li>(i) to serve and receive service of all notices, counter notices, etc required or permitted to be served under the Act</li> <li>(ii) to determine points of clarification required for hearings</li> <li>(iii) to agree that a hearing is unnecessary</li> <li>(iv) to adjourn hearings where all parties are in agreement</li> <li>(v) to determine applications where representations are withdrawn before the hearing</li> <li>(vi) to give effect to the decisions of the Magistrates Court on appeal</li> </ul>	The Team Leader (General Licensing), the Customer Services Manager Food and Licensing, and the Services Director, Environment and Public Protection

**2. Determination of applications etc.**

In relation to the following matters the Authority will, in the majority of cases, follow the table of delegated functions set out below. This table indicates the lowest level of the authority which will normally exercise the delegation though the Authority reserves the right, (where appropriate), for any particular matter to be dealt with at a higher level whilst having due regard to statutory requirements. For example, an Officer may choose not to exercise their delegated power and refer the matter to the Panel or the Panel itself may choose to refer the matter to the Full Committee.

<b>Matter to be dealt with</b>	<b>Full Licensing Committee</b>	<b>Licensing Panel</b>	<b>Officer *</b>
Application for premises licence (including applications		i. Representation made and not withdrawn (S154 (4)(a))and/or	No representation made or representations have been withdrawn

for re-instatement under S195)		ii. Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary	
Application to vary premises licence		i. Representation made and not withdrawn (S154 (4)(b)) and/or ii. Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary (S187(3))	No representation made or representations have been withdrawn
Application for transfer of premises licence		Representation made and not withdrawn (S154 (4) (c))	All other cases
Application for provisional statement		i. Representation made and not withdrawn (S154 (4)(d)) and/or  ii. Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and	No representation made or representations have been withdrawn

		any persons making representations agree to this course of action and that a hearing is unnecessary	
Review of a premises Licence		All cases	
Consideration of Temporary Use Notices (including notices modified under section 223)		<p>i. All cases where an objection notice has been received unless each person who would be entitled to make representations agrees that a hearing is unnecessary and the Head of Food and Licensing or the Services Director, Environment and Public Protection is satisfied that a counter notice is not required (S 222 and 232).</p> <p>ii All Cases where a counter notice may be required (S232(3))</p>	All other cases
Application for Club Gaming/Club machine permits, renewals and variations (including those leading to cancellation of permit) under Sch12 para 15		<p>Objection made and not withdrawn (Sch 12 para 28 (2))</p> <p>Refusal of permit proposed on the grounds listed in Sch 12 paragraph 6(1)(a)-(d) , or paragraph 10(3) as applicable unless Authority and all relevant parties agree that a hearing is unnecessary (Sch 12 para 7)</p>	All other cases
Cancellation of Club Gaming /Club Machine Permits under Schedule 12		All cases	

Paragraphs 21, and 22 (non payment of annual fee)			
Applications for other permits registrations. and notifications			All cases
Cancellation (under Schedule 13 paragraphs 16, and 17 (non payment of annual fee)) and variation of Licensed Premises Gaming Machine permits under Schedule 13 paragraph 16		Where permit holder requests a hearing under paragraph 16 (2) or makes representations	All other cases

\* These powers are delegated to the Team Leader (General Licensing), the Senior Assistant Licensing Officer (General Licensing), the Head of Food and Licensing, and the Services Director, Environment and Public Protection.