

# BRIDGEND COUNTY BOROUGH COUNCIL

## REPORT TO LICENSING COMMITTEE

11 MAY 2007

### REPORT OF THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES

#### GAMBLING ACT 2005

#### PROPOSALS FOR THE CONDUCT OF BUSINESS BY THE LICENSING COMMITTEE AND SUB-COMMITTEE AND FOR RELATED ALTERATIONS TO THE SCHEMES OF DELEGATION AND THE CONSTITUTION

#### **1.0 Purpose of Report.**

1.1 To propose delegations of duties to officers and the Licensing Sub-Committees to allow the effective implementation and future operation of the Gambling Act 2005 ("the Act").

#### **2.0 Connection to Corporate Improvement Plan / Other Corporate Priority.**

2.1 The duties of the Council under the Act are regulatory in nature and the Act sets out the licensing objectives which must be taken on board as part of any decision making process. The licensing objectives however support many of the overarching aims of the Corporate Improvement Plan and the Council's Corporate Priorities.

#### **3.0 Background**

3.1 The Act will come into force during 2007. It provides for the regulation of gambling and under the provisions of the Act the Council will be responsible for issuing and regulating a variety of Premises Licences and gaming permits.

#### **4.0 Current situation / proposal.**

##### Delegations

4.1 Section 154 of the Act provides that the main functions of the Council, as the Licensing Authority, in relation to gambling are delegated to the Licensing Committee already established under the provisions of the Licensing Act 2003. Section 154 further provides that the majority of the functions delegated to the Licensing Committee under the Act can be further delegated by the Licensing Committee to its Sub-Committees and officers.

4.2 It is proposed that wherever possible the duties of the Authority under the Act will be discharged by officers. In those instances where officers are not able to exercise delegated powers the duties of the Authority will be discharged by a sub-committee.

4.3 It is proposed that sub-committees of three members be formed as and when required to deal with applications. For the purposes of dealing with applications under the Licensing Act 2003, three member panels are formed from two separate pools of the members of the Licensing Committee. It is proposed that the sub-

committees called to deal with applications under the Gambling Act will be formed using the same method.

4.4 Under the Act the Authority is responsible for granting licences for the following premises;

- Casinos premises,
- Bingo premises,
- Betting premises,
- Adult gaming centres, and
- Family entertainment centres.

The responsibility for dealing with all applications in relation to such premises can be delegated to officers, unless representations are received and are not withdrawn, or there is an application to review a premises licence. Such applications must be dealt with by the Licensing Committee of a sub-committee of that Committee.

4.5 Under the Act the Authority is also responsible for granting the following permits;

- Family entertainment centre gaming machine permits,
- Club gaming permits,
- Club machine permits,
- Prize gaming permits, and
- Licensed premise gaming machine permits.

The responsibility for dealing with all applications in relation to permits can be delegated to officers, unless in respect of applications for club gaming permits and club machine permits objections are received and are not withdrawn, or there is an application for the cancellation of a club gaming permit or a club machine permit. These applications must be dealt with by the Licensing Committee or a sub-committee of that Committee.

4.6 The final category of applications that the Authority must deal with under the Act is applications for temporary use notices and occasional use notices. Again, the responsibility for dealing with applications for such notices can be delegated to officers, unless, in respect of a temporary use notice, the decision of whether or not a counter notice should be issued is required to be made. Such a decision can only be made by the Licensing Committee or a sub-committee of that Committee.

4.7 In accordance with the information provided above it is proposed that the delegations from the Licensing Committee to its sub-committees and officers should be as set out in Table 1 below. These proposals are in accordance with the guidance issued to Licensing Authorities in respect of the Act by the Gambling Commission.

**Table 1**

<b>Matter</b>	<b>Sub-Committee to hear and determine</b>	<b>Officers to determine</b>
Application for premises licence	Where representations have been received and not been withdrawn	Where no representations have been received or where representations have been withdrawn
Applications for a variation to a premises licence	Where representations have been received and not been withdrawn	Where no representations have been received or where representations have been withdrawn
Applications for the transfer of a premises licence	Where representations have been received from the Gambling Commission	Where no representations have been received from the Gambling Commission
Applications for a provisional statement	Where representations have been received and not been withdrawn	Where no representations have been received or where representations have been withdrawn
Applications for the review of a premises licence	All cases	
Applications for club gaming permits	Where objections have been received and have not been withdrawn	Where no objections have been received or where objections have been withdrawn
Applications for club machine permits	Where objections have been received and have not been withdrawn	Where no objections have been received or where objections have been withdrawn
Cancellation of club gaming permits	All cases	
Cancellation of club machine permits	All cases	
Applications for all other permits		All cases
Cancellation of licensed premises gaming machine permits		All cases
Applications for temporary use notices		All cases
Decision to issue a counter notice to a temporary use notice	All cases	
Applications for occasional use notices		All cases
Determination of whether representations are vexatious, frivolous or certainly will not influence the Authority's determination of an application		All cases
Decision to refuse	All cases	

application for small lottery registration		
Decision to disapply S282 – automatic entitlement to two gaming machines in licensed premises	All cases	

4.8 It is proposed that the officers referred to in Table 1 above as the officers making decisions under the Act will be the Director of Legal and Democratic Services, the Licensing and Registration Manager and the Senior Licensing Assistant.

**Procedure for Hearings**

4.9 The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 provides that where a hearing is required in respect of applications relating to premises licences, such hearings must be held as soon as reasonably practicable, and that notice of the hearings are to be provided to the relevant parties which will be accompanied by information giving the rights of the parties invited to attend, the consequences of a party not attending and not being represented at a hearing, and the procedure that will be followed at the hearing.

4.10 To ensure that there is a consistent and fair hearing procedure it is proposed that the Committee approve the draft procedure set out in Appendix 1 hereto as the procedure to be adopted at all hearings held in respect of applications made under the Act.

**5.0 Effect upon Policy Framework& Procedure Rules.**

5.1 The report content has no direct effect upon the Policy Framework and Procedure Rules but is required to effectively implement the Authority’s new regulatory functions in relation to gambling.

**6.0 Legal Implications.**

6.1 The proposals recommended within the report are necessary for the effective implementation of the Gambling Act 2005.

**7.0 Financial Implications.**

7.1 None

**8.0 Recommendation.**

It is recommended:

- (i) That the functions of the Licensing Committee in relation to premises licences, permits, temporary use notices and occasional use notices be delegated to officers and sub-committees of the Licensing Committee as set out in Table 2 below;

**Table 2**

<b>Matter</b>	<b>Sub-Committee to hear and determine</b>	<b>Officers to determine</b>
Application for premises licence	Where representations have been received and not been withdrawn	Where no representations have been received or where representations have been withdrawn
Applications for a variation to a premises licence	Where representations have been received and not been withdrawn	Where no representations have been received or where representations have been withdrawn
Applications for the transfer of a premises licence	Where representations have been received from the Gambling Commission	Where no representations have been received from the Gambling Commission
Applications for a provisional statement	Where representations have been received and not been withdrawn	Where no representations have been received or where representations have been withdrawn
Applications for the review of a premises licence	All cases	
Applications for club gaming permits	Where objections have been received and have not been withdrawn	Where no objections have been received or where objections have been withdrawn
Applications for club machine permits	Where objections have been received and have not been withdrawn	Where no objections have been received or where objections have been withdrawn
Cancellation of club gaming permits	All cases	
Cancellation of club machine permits	All cases	
Applications for all other permits		All cases
Cancellation of licensed premises gaming machine permits		All cases
Applications for temporary use notices		All cases
Decision to issue a counter notice to a temporary use notice	All cases	
Applications for occasional use notices		All cases
Determination of whether representations are vexatious, frivolous or certainly will not influence the Authority's determination of an application		All cases
Decision to refuse	All cases	

application for small lottery registration		
Decision to disapply S282 – automatic entitlement to two gaming machines in licensed premises	All cases	

- (ii) That the Director of Legal and Democratic Services submit a report to Council recommending amendments to the Council’s Constitution and Schemes of Delegation to reflect the sub-delegation of the Licensing Committee in respect of the Gambling Act 2005.
- (iii) That the Procedure for Licensing Sub-Committee Hearings (as set out in Appendix 1) be approved.

**P A Jolley**  
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**4 May 2007**

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**Background documents:**

- Gambling Act 2005
- Gambling Commission Guidance to Licensing Authorities April 2006
- The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007