

Telford & Wrekin Council

Licensing Committee – 20th November 2012

Delegation of Functions in relation to the Gambling Act 2005 – (Revocation due to non-payment of annual fees)

Report of: Service Delivery Manager Public Protection

1. Purpose

To delegate functions of the Licensing Committee under the Gambling Act 2005 to the Service Delivery Manager Public Protection and Principal Licensing Officer in respect of the revocation of premises licences due to non-payment of annual fees.

2. Recommendations

- 2.1 That Members delegate the functions set out in the report to the Service Delivery Manager Public Protection.

3. Summary

- 3.1 Since September 2007, Premises Licence Applications (Betting, Bingo, Adult Gaming Centres, Family Entertainment Centres & Tracks) have been administered and licensed by Telford & Wrekin Council under the provisions of the Gambling Act 2005.
- 3.2 Under the Act, the Licensing Committee is specifically tasked with carrying out the functions in relation to Premises Licences, Temporary Use Notices and Permits under the Gambling Act 2005.

4. Previous Minutes

- 4.1 LC-8 17th April 2007.

5. Information

5.1 Background

- 5.1.1 Under the Gambling Act 2005 where no representations to a Premises Licence are received, applications must be granted. There are no hearings for such applications which will be dealt with more expeditiously if delegated to Officers. The current Scheme of Delegation is attached as **Appendix A**.

- 5.1.2 In its current Statement of Gambling Principles, Telford & Wrekin Council delegated the following functions to Officers:-
- Applications for Premises Licences where no representations are received or where representations have been withdrawn.
 - Applications to vary Premises Licences where no representations are received or where representations are withdrawn.
 - Applications to transfer licences where no representations are received.
 - Applications for Provisional Statements where no representations have been received or where representations are withdrawn.
 - Applications for Club Gaming and Club Machine Permits where no objections have been made or objections have been withdrawn.
 - Applications for other Permits
 - Cancellation of licensed premises gaming machine permits
 - Consideration of Temporary Use Notices

5.1.3. In addition, the Licensing Committee is recommended to delegate the following function to Officers:-

- To revoke a Premises Licence in respect of non-payment of an annual fee.

5.1.4 Part 8 (193) of the Gambling Act 2005 states:

(1) Where the holder of a premises licence fails to pay the annual fee in accordance with regulations under section 184 the licensing authority shall revoke the licence

Part 8 (184) of the Gambling Act 2005 states:

(1) The holder of a premises licence – (b) shall pay an annual fee to the licensing authority before each anniversary of the issue of the licence.

It should be noted that there is no provision in the Gambling Act 2005 to appeal the decision to revoke a premises licence for non payment of the annual fee.

5.2 Equal Opportunities

5.2.1 None – statutory provisions being implemented only.

5.3 Environmental Impact

5.3.1 Not applicable for the purposes of this report.

5.4 Legal Comment

5.4.1. Under section 154 of the Gambling Act 2005 certain functions of the licensing authority are delegated to the licensing committee including the revocation a Premises Licence in respect of non-payment of an annual fee. The licensing committee can further delegate such functions to the officers.

5.4.2 The legal issues concerning this report are contained within the body of the report.

5.5 Links with Corporate Priorities

5.5.1 This report has links to :

1. Creating a safer community
- (b) Safeguard health and safety of the community

5.6 Financial Comment

5.6.1 Payment in respect of license fees is received by the Licensing Service upon initial application for the license. A reminder is sent out annually by the Licensing Service informing the license holder that the annual fee is due. If the annual license fee is not paid then the license is revoked and the business is not able to continue trading. There is no current outstanding debt in respect of annual fees payable under the Gambling Act 2005.

MLB 05.11.12

5.7 Risks and Opportunities

5.7.1 In proposing the delegation to be made concerning the revocation of premises licences, the Corporate Risk Management Methodology has been complied with. This approach is not intended to eliminate risks but to identify the risks and manage them. However, not all risks can be managed all of the time and some risks may not have been identified.

5.7.2 A legal challenge by way of Judicial Review should the Licensing Authority fail to carry out it's statutory functions lawfully.

5.7.3 Having identified this risk, processes and procedures have been put in place to ensure that Regulations are complied with.

6. Ward Implications

6.1 Borough Wide Implications

7. Background Papers

7.1 Gambling Act 2005

7.2 Guidance to Licensing Authorities (4th Edition) issued by the Gambling Commission

7.3 Telford & Wrekin Statement of Licensing Principles.

7.4 Telford & Wrekin draft revision of Statement of Licensing Principles.

7.5 Telford & Wrekin Council's Constitution

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