

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**LICENSING COMMITTEE – 19<sup>th</sup> SEPTEMBER 2007**

Title of report	<b>SUB-COMMITTEE HEARING PROCEDURES FOR LICENSING ACT 2003 AND GAMBLING ACT 2005</b>
Contacts	<p>Portfolio holder – Councillor Rushton  <a href="mailto:nicholas.rushton@nwleicestershire.gov.uk">nicholas.rushton@nwleicestershire.gov.uk</a>                      Interim Head of Environmental Health – Ian Marriner                      Tel: 01530 454551 <a href="mailto:ian.marriner@nwleicestershire.gov.uk">ian.marriner@nwleicestershire.gov.uk</a>                      Licensing Enforcement Officer – Emma McHugh                      Tel: 01530 454838 <a href="mailto:emma.mchugh@nwleicestershire.gov.uk">emma.mchugh@nwleicestershire.gov.uk</a></p>
Purpose of report	<p>To approve the amended Licensing Act 2003 Sub-Committee hearing procedure.</p> <p>To approve the new Gambling Act 2005 Sub-Committee hearing procedure for premises licence.</p> <p>To approve the new Gambling Act 2005 Sub-Committee hearing procedure for permits and other authorisations.</p> <p>To approve the amended Chairman’s notes for Sub-Committee hearings.</p>
Strategic aims	<b>Safer Communities</b>
Implications:	
Financial/Staff	<b>None arising directly from this report.</b>
Health/Anti-Poverty	<b>None.</b>
Crime and Disorder	<b>The Licensing Authority must undertake its responsibilities to prevent crime and disorder.</b>
Risk Management	<b>Not applicable.</b>
Human Rights	<b>None.</b>
E-Government	<b>None.</b>
Consultees	<b>None.</b>

Comments of Monitoring Officer	<b>On the advice of Fraser Brown solicitors, the report is satisfactory.</b>
Comments of Section 151 Officer	<b>The report is satisfactory.</b>
Comments of Head of Paid Service	<b>The report is satisfactory.</b>
Background papers	<b>Licensing Act 2003 Licensing Act 2003 (Hearings) Regulations 2005 Gambling Act 2005 The Gambling Act 2005 (Procedures of Licensing Committees and Sub-Committees) (Premises Licence and Provisional Statements) (England and Wales) Regulations 2007</b>
Recommendations	<b>1. To approve the amended Licensing Act 2003 Sub-Committee hearing procedure.  2. To approve the new Gambling Act 2005 Sub-Committee hearing procedure for premises licence.  3. To approve the new Gambling Act 2005 Sub-Committee hearing procedure for permits and other authorisations.  4. To approve the amended Chairman's notes for Sub-Committee hearings.</b>

## **1. Licensing Act 2003 Sub-Committee Hearing Procedure**

- 1.1 The Licensing Act 2003 came into force on 24<sup>th</sup> November 2005. The Department of Culture, Media and Sport issued the majority of the regulations that accompany the Act after the start of the transitional period for existing operators which commenced on 6<sup>th</sup> February 2005. Therefore the current hearings procedure was produced prior to the publication of the Licensing Act 2003 (Hearings) Regulations 2005 which state the procedure to be followed at any Licensing Act 2003 Sub-Committee hearing.
- 1.2 The current procedure has worked successfully at many Sub-Committee Hearings over the past few years however the procedure is not fully consistent with the requirements of the above regulations. Slight amendments have been made to ensure that the procedure reflects the regulations and Member's approval is sought to bring the revised version of the procedure into immediate effect. The revised hearing procedure is attached as appendix 1.

## **2. Gambling Act 2005 Sub-Committee Hearing Procedure for Premises Licences**

- 2.1 The Gambling Act 2005 will come into force on 1<sup>st</sup> September 2007 and will modernise all aspects of gambling. As a Licensing Authority, we are responsible for the issuing of premises licence to authorise gambling activities in premises within our District.
- 2.2 The Gambling Act 2005 is similar to the Licensing Act 2003 in that if an objection is received to the grant of a premises licence from any of the Responsible Authorities or an Interested Party then the application must be referred to the Licensing Sub-Committee for determination. There are also other occasions such as an application for a review of a premises licence which would also necessitate before the Licensing Sub-Committee.
- 2.3 In line with the Gambling Act 2005 (Procedures of Licensing Committees and Sub-Committees) (Premises Licence and Provisional Statements) (England and Wales) Regulations 2007, a hearing procedure for Sub-Committee hearings for premises licence has been produced. The hearing procedure is attached as appendix 2.
- 2.4 Member approval is sought in order to bring the new hearing procedure for premises licences under the Gambling Act 2005 into immediate effect.

### **3.0 Gambling Act 2005 Sub-Committee Hearing Procedure for Permits and Other Authorisations.**

- 3.1 As a Licensing Authority, we are also responsible for issuing permits for different types of gambling activities and premises within the District. There are no prescribed hearing regulations for Sub-Committee hearings that are held to determine any contentious permit hearings. The Act only states that the Licensing Authority may refuse or amend any permit application if the applicant has been given the opportunity to make representations in relation to the proposed refusal or amendment.
- 3.2 If any permit application is to be refused or amended by the Licensing Authority and the applicant wishes to make representations the application will be referred to the Sub-Committee for determination. Therefore, in order to deal with such a hearing a separate hearing procedure has been drafted for the benefit of officers, Members and applicants.
- 3.3 It is proposed that a Sub-Committee hearing to determine a permit application will follow the same format as any other Sub-Committee hearing held under the Gambling Act 2005. The hearing procedure reflects this intention however as there are no hearing regulations for permits certain aspects i.e. the prescribed time limits will not be applicable to this procedure.
- 3.4 The other authorisations are a reference to the requirement for a Sub-Committee hearing to be held for a matter under the Gambling Act 2005 that does not relate to an application. For example, the Licensing Authority has the power to make an order that will remove the automatic entitlement to two gaming machines at alcohol licensed premises. The removal of this entitlement would be based on evidence provided by Licensing Enforcement Officers rather than any application from an operator. Accordingly, this hearing procedure has been drafted with this and other requirements in mind.

3.5 The hearing procedure is attached as appendix 3. Member approval is sought in order to bring this hearing procedure into immediate effect.

#### **4.0 Chairman's Notes at a Sub-Committee Hearing**

4.1 At the start of any Sub-Committee hearing, the Chair will utilise the notes provided to introduce the parties and summarise the salient points of the hearing procedure. In order to make the Sub-Committee hearing more efficient, the Chairman's notes have been revised so that they act as an 'aide memoire' for the Chair. Member approval is sought to introduce the revised Chairman's notes immediately. A copy of the notes is attached as appendix 4.