

AUDIT COMMITTEE – 19TH OCTOBER 2005

AGENDA ITEM 6 – CONSTITUTIONAL REVIEW – PROPOSED AMENDMENTS

SUPPLEMENTARY ISSUE FOR CONSIDERATION

Part 3 Section 4 Licensing Act Committee – Terms of Reference

Since the publication of the agenda for this meeting, the Department for Culture, Media and Sport has issued a circular on the transfer of functions relating to gaming and gaming machines in alcohol licensed premises from the Licensing Justices to local licensing authorities once the Licensing Act 2003 is fully implemented on the 24th November 2005.

This means that from that date the Council, as licensing authority will be responsible for the following:

1. The grant of permits under Section 34 of the Gaming Act 1968 for amusement with prizes gaming machines in pubs and other alcohol licensed premises,
2. The making of orders under Section 6 of the Gaming Act 1968 authorising low-stake gaming on alcohol licensed premises, and
3. The grant of permits under Section 16 of the Lotteries and Amusements Act 1976 for commercial amusement with prizes in alcohol licensed premises

Schedule 6 to the Licensing Act provides that these functions are to be dealt with by the Committee of the local authority established under Section 7 of the Licensing Act 2003. In the case of this Council, that is the Licensing Act Committee. However, the DCMS circular emphasises that the functions remain functions under the Gaming Act 1968 and Lotteries and Amusements Act 1976 respectively, and do not become functions under the Licensing Act 2003.

The terms of reference of the Licensing Act Committee in Section 4 of Part 3 of the Council's Constitution refer to discharging "all the functions of the Council as licensing authority under the Licensing Act 2003...". As the functions identified above are not strictly functions under the Licensing Act 2003, but remain functions under the original legislation, it is recommended that, for the sake of accuracy, the terms of reference of the Licensing Act Committee should be amended to make it clear that these functions are included.

It should be noted that the Council already has functions under the Gaming Act 1968 and Lotteries and Amusements Act 1976 in respect of premises where alcohol is not sold, and these will remain within the terms of reference of the Licensing Regulatory Committee. It is recommended that the terms of reference of that Committee should be amended to make it clear that alcohol licensed premises are excluded from its remit.

There are no financial implications for these proposed amendments, other than those already set out in the main report.

Proposed Amendments

Part 3 Section 3 - Licensing Regulatory Committee

Terms of Reference

4. To issue licences and registrations under the Betting Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976, save in respect of premises licensed under the Licensing Act 2003 for the sale or supply of alcohol.

Part 3 Section 4 - Licensing Act Committee

Terms of Reference

- To discharge all the functions of the Council as licensing authority under the Licensing Act 2003, with the exception of the functions under Section 5 of the Act relating to the preparation, determination, review and publishing of the statement of licensing policy, which as a matter of law are not to be carried out by the Committee, and which are functions of full Council.

- To discharge all the functions of the Council under the Gaming Act 1968 and the Lotteries and Amusements Act 1976 in so far as these relate to premises licensed under the Licensing Act 2003 for the sale or supply of alcohol.

The functions of the Committee will include:

.....

(d) any other matters which are licensing functions or are to be treated as licensing functions for the purposes of the Licensing Act 2003.

Head of Legal Services
12th October 2005