

<b>REPORT TO:</b>	<b>LICENSING COMMITTEE 23 NOVEMBER 2017</b>
<b>SUBJECT:</b>	<b>THE GAMBLING ACT 2005 – Delegation of Decision Making Authority</b>
<b>LEAD OFFICER:</b>	<b>EXECUTIVE DIRECTOR OF PLACE</b>
<b>CABINET MEMBER:</b>	<b>COUNCILLOR HAMIDA ALI, CABINET MEMBER FOR COMMUNITIES, SAFETY &amp; JUSTICE</b>
<b>WARDS:</b>	<b>ALL</b>
<b>CORPORATE PRIORITY/POLICY CONTEXT:</b>	
<p><b>FINANCIAL SUMMARY:</b></p> <p>The Gambling Act became fully operational on 1<sup>st</sup> September 2007. The Council has been processing applications with regard to this legislation since 21 May 2007, which was the start of the conversion period under the Act.</p> <p>There are no financial implications associated with this report, save for those set out in the body of the report with regard to decision making by the licensing committee and full Council.</p> <p>The costs of administering the functions associated with this report will be met from existing resources.</p>	
<b>FORWARD PLAN KEY DECISION REFERENCE NO.:</b>	

**For general release**

## **1. RECOMMENDATIONS**

The Committee is asked to:

1.1 Consider the content of this report and delegate authority to the Director of Safety, to undertake functions pertaining to the cancellation or withdrawal of Club Gaming & Club Machine Permits, including issuing notification of intention to withdraw/cancel Permits, consideration of representations and making a final determination on the matter. Such delegation in relation to the final determination on cancellation or withdrawal is subject to there not having been a request by a Club Gaming or Club Machine Permit holder for a hearing with regard to a proposal to cancel/withdraw their permit.

## **2. EXECUTIVE SUMMARY**

- 2.1 The Gambling Act 2005 (the Act) came into force on 1<sup>st</sup> September 2007 and made local authorities, as licensing authorities, responsible for the administration of licences, registrations, permits, notices and notifications under the Act.
- 2.2 Local authorities are only responsible for licensing *the premises* on which gambling takes place. They are not responsible for licensing the operators themselves as this function falls to the Gambling Commission. As well as issuing premises licenses, local authorities are also responsible for issuing permits in respect of:
- Gaming machines in alcohol-licensed premises, such as pubs
  - Gaming machines in members clubs
  - Gaming in members clubs
  - Unlicensed family entertainment centres (small stake and payout machines only)
  - Prize gaming
  - Occasional Use Notices
  - Temporary Use Notices
  - Provisional Statements
- 2.3 The Council licensing team undertake inspections and enforce the conditions on these issued licences, permits and notices. It also registers small scale society lotteries.
- 2.4 The Licensing Sub Committee is required to consider a variety of premises licence related applications where representations have been received but not withdrawn.

## **3. DETAIL**

- 3.1 The Licensing Sub Committee is required to consider a variety of premises licence related applications where representations have been received but not withdrawn. However, there is a lack of consistency in relation to the split of functions between the licensing sub committee and officers with regard to Permits. For example, decision making with regard to applications for Club Gaming and Club Machine Permits rests with the licensing sub committee where there are objections but is delegated to officers where there are no objections. However, decision making with regard to the cancellation/withdrawal of Club Gaming and Club Machine Permits rests with the Licensing Sub Committee, even if there are no objections, from the Permit holder to the proposal to withdraw/cancel the permit.
- 3.2 In order to ensure that decision making is undertaken at the appropriate level and Members are not required to be involved where there is no request for a hearing by a Club Gaming or Club Machine Permit holder, this report seeks authorisation to delegate to the Director of Safety, authority to undertake functions pertaining to cancellation or withdrawal of Club Gaming & Club Machine Permits, including consideration of representations and making a final determination on the matter. Such delegation in relation to the final

determination on cancellation or withdrawal is subject to there not having been a request from the Club Gaming or Club Machine Permit holder for a hearing with regard to a proposal to cancel/withdraw their permit.

## **5. FINANCIAL CONSIDERATIONS**

### **1 Revenue and Capital consequences of report recommendations**

There are no direct financial implications associated with this report. This matter is being processed as part of normal duties and therefore the work associated with it is contained within the departmental budget.

### **2 The Effect of the Decision**

There are no direct financial impacts of the recommendations in this report

### **3 Risks**

There are no direct risks associated with the recommendations in this report

### **4 Options**

There are no other options available to the Council

### **5 Savings/Future Efficiencies**

None identified

(Approved by: Felicia Wright, Head of Finance – Place Department)

## **6. COMMENTS OF THE SOLICITOR TO THE COUNCIL**

- 6.1 The Solicitor to the Council comments that it is permissible for the functions in relation to the cancellation or withdrawal of Club Gaming or Club Machine Permits to be delegated to an officer of the authority, however provision must be made for a hearing by the Licensing sub-committee where the Club Gaming or Club Machine Permit Holder requests such a hearing following notification of the intention to cancel/withdraw their Permit. The proposed delegation seeks to achieve this balance.

(Approved by: Sandra Herbert, Head of Litigation and Corporate Law for and on behalf of Jacqueline Harris Baker, Director of Law and Monitoring Officer)

## **7. HUMAN RESOURCES IMPACT**

- 7.1 The workload associated with this report has been undertaken within existing resources.

## **8. CUSTOMER IMPACT**

- 8.1 The Gambling Act impacts on existing and potential premises' licensees. Well managed licensed premises attract customers and contribute to a vibrant local economy.

## **9. EQUALITIES IMPACT**

- 9.1 There are no perceived inequalities associated with the recommendations within this report.

## **10. ENVIRONMENTAL AND DESIGN IMPACT**

- 10.1 There are potential environmental and design impacts associated with the development of large casinos. However, the majority of gambling premises in Croydon are small buildings like betting shops, amusement arcades and bingo halls. Many of these premises already have established use and are not considered to impact on the local environment. In any event, the recommendations within this report do not give rise to any environmental or design impact implications.

## **11. CRIME AND DISORDER REDUCTION IMPACT**

- 11.1 There are not considered to be any local crime and disorder problems associated with the local authority having responsibility for the administration of licences and permits etc. under the Gambling Act 2005. The local authority is only responsible for premises licensing. The licensing of operators is the responsibility of the Gambling Commission.

## **12. RISK ASSESSMENT**

- 12.1 The Council's decision making processes with regard to the Gambling Act 2005 may be subject to Judicial Review. A Judicial Review presents financial risks and risks to the reputation of the organisation which is subject to it. Any licensee has the right of appeal to the Magistrates' Court if they feel aggrieved over the Council's decision to grant, refuse or vary a licence. There is a risk that if the appellant wins, legal costs could be awarded against the Council.

## **13. HUMAN RIGHTS IMPACT**

- 13.1 The Gambling Act 2005 is compliant with the Human Rights Act 1998 but it will be necessary to ensure that procedures for dealing with applications also meet the Acts requirements.

## **14. FREEDOM OF INFORMATION/DATA PROTECTION CONSIDERATIONS**

- 14.1 The Decision Making Processes under the Gambling Act 2005 will be accessible as part of the Council's Publication Scheme maintained under the Freedom of Information Act.

**CONTACT OFFICER:** Michael Goddard, Licensing Manager  
Tel. Ext. 61838

**BACKGROUND DOCUMENTS:** None