

Chief Executive's Office

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Date: 23 November 2005

Chorley
Borough Council

Town Hall
Market Street
Chorley
Lancashire
PR7 1DP

Chief Executive:
Jeffrey W Davies MA LLM

Dear Councillor

A meeting of the Statutory Licensing Committee is to be held in the Council Chamber, Town Hall, Chorley on Tuesday, 6th December, 2005 commencing at the rise of the Licensing and Safety Committee

AGENDA

1. **Apologies for absence**
2. **Declarations of Any Interests**

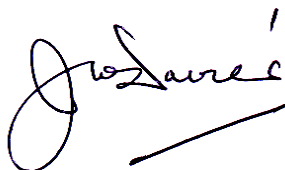
Members of the Committee are reminded of their responsibility to declare any personal interest in respect of matters contained in this agenda in accordance with the provisions of the Local Government Act 2000, the Council's Constitution and the Members Code of Conduct. If the personal interest is a prejudicial interest, then the individual Member should not participate in a discussion on the matter and must withdraw from the Council Chamber and not seek to influence a decision on the matter.

3. **Transfer of Gaming and Gaming Machines on Alcohol Licensed Premises (Pages 1 - 8)**

Report of Director of Legal Services (enclosed)

4. **Any other item(s) that the Chair decides is/are urgent**

Yours sincerely



Continued....

Chief Executive

Distribution

1. Agenda and reports to all Members of the Statutory Licensing Committee (Councillor R Snape (Chair), Councillor Iddon (Vice-Chair), Councillors Bedford, Mrs D Dickinson, D Dickinson, A Gee, T Gray, Hoyle, M Lees, Lennox, McGowan, Mrs Smith, E Smith, Walker and Mrs Walsh) for attendance.
2. Agenda and reports to Director of Legal Services and Licensing Manager for attendance.
3. Agenda and reports to Executive Leader (Councillor J Wilson) Deputy Leader (Councillor Edgerley) Leader of Conservative Group (Councillor P Goldsworthy) and Leader of Liberal Democrat Group (Councillor K Ball) for information.
4. Agenda and reports to all remaining Chief Officers for information.
5. Agenda and reports to all remaining Members of the Council for information.

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આ માહિતીનો અનુવાદ આપની પોતાની ભાષામાં કરી શકાય છે. આ સેવા સરળતાથી મેળવવા માટે કૃપા કરી, આ નંબર પર ફોન કરો: 01257 515822

ان معلومات کا ترجمہ آپ کی اپنی زبان میں بھی کیا جاسکتا ہے۔ یہ خدمت استعمال کرنے کیلئے براہ مہربانی اس نمبر پر ٹیلیفون

01257 515823

کیجئے:

Report

Report of	Meeting	Date	Item No
Director of Legal Services	Licensing Act 2003 Committee	6 December 2005	

TRANSFER OF GAMING AND GAMING MACHINES ON ALCOHOL LICENSED PREMISES

PURPOSE OF REPORT

- To inform members of the transfer of functions in respect of gaming machines in alcohol licensed premises and to seek approval of a delegation scheme for determining applications.

CORPORATE PRIORITIES

- This report does not affect any corporate priorities.

RISK ISSUES

- The report contains no risk issues for consideration by Members.

BACKGROUND

- As a result of the Licensing Act 2003 changes have been made to the licensing regime for gaming and gaming machines (also known as amusement with prizes machines) in alcohol licensed premises.
- The responsibilities will, from second appointed date transfer over from the licensing justices to local authorities in their role as licensing authorities under the 2003 Act.

LEGAL FRAMEWORK

- Amusement with prizes machines (AWP)
 These are known as “ fruit “ or “ slot “ machines and there are two types:
 - Section 34(5E) the “ all cash” machine, which has a maximum stake of 30p and a maximum prize of £25. This is commonly found in pubs or amusement arcades with an over 18-door policy: and
 - Section 34(1) the “ coin” or “ token “ machine which has a maximum stake of 30p and a maximum prize of £5 cash or £8 non cash. This type is found in amusement arcades to which children have access.

Continued...



6. Under existing legislation this Authority is responsible for authorising the issue of permits for AWP machines in amusement arcades, etc. The new responsibilities will involve authorising AWP machines in alcohol licensed premises.

ALCOHOL LICENSED PREMISES

7. From 24 November 2005 this will mean premises with a premises licence authorising the supply of alcohol for consumption on the premises as defined in the Licensing Act 2003.
8. Not all alcohol licensed premises are allowed AWP machines. When local authorities take on this function it will be an automatic condition of all section 34 permits issued for alcohol licensed premises that AWP machines must only be located on premises which have a bar for serving drinks to customers (without the requirement for food to accompany alcohol). Therefore, only hotels and restaurants with a bar will be able to apply for a section 34 permit. If a hotel/ restaurant serves alcohol only with food they will not be able to apply.

CLUBS

9. Clubs having the benefit of a club premises certificate (authorising the supply of alcohol) under the 2003 will not be affected by these changes. Separate registration arrangements cover gaming machines in clubs and these will continue to be overseen by the licensing justices.

LIMITS ON NUMBER OF AWP MACHINES IN ALCOHOL LICENSED PREMISES

10. The Gaming Act 1968 does not impose any upper limit on the number of AWP machines a pub is permitted. In determining applications, authorities will have the power to set a limit on a case by case basis.
11. The DCMS recommends that licensing authorities dispense with a hearing where the application is for no more than two machines. This does not mean that local authorities need automatically hold a hearing if the application is for more than two machines. Each application should be treated on its own merits.
12. It is important that members be aware that from Autumn 2007 when the new Gambling Act 2005 comes into force, alcohol licensed premises will be automatically entitled to two gaming machines provided that they comply with a simple notification procedure. If they wish to apply for more machines they will have to apply to the licensing authority for a permit.

RULES RELATING TO LOCATION OF AWP MACHINES ON LICENSED PREMISES

13. The 2003 Act amends the requirement that the machine must be located in the bar. The DCMS indicates that it will be encouraging licensees, when deciding where to locate machines to bear in mind that when the Gambling Act comes into force, it will outlaw children under 18 from playing gaming machines with a maximum prize of more than £8. The Gambling Commission is likely to publish a draft code of practice covering the location and supervision of machines in 2006.
14. Licensees, in the meantime should be encouraged to follow best practice guidance

TYPES OF MACHINES ALCOHOL LICENSED PREMISES ARE ALLOWED .

15. Section 34 permits can be granted for higher “ all cash” AWP’s or lower value “ coin or token” AWP’s. In the case of alcohol licensed premises the permit allows either type of machine to be made available, although common practice is for the higher value machines to be offered on such premises. Alcohol licensed premises must apply under section 34(E) but may then have either all cash or coin or token machines.

LOCAL AUTHORITIES RESPONSIBILITIES

15. Licensing Authorities will be responsible for the issuing of new permits or the renewal of permits issued previously by the licensing justices. All existing permits will remain valid and operate in tandem with new premise licences even where there is a change of name from the Licensees Justices Licence to the new premise licence. However, after 24 November 2005 if the name of the premises licence changes any section 34 permit will lapse and the new premise licence holder will be required to make a fresh application to the licensing authority for a section 34 permit.

RESOLUTIONS BANNING AWP MACHINES IN ALCOHOL LICENSED PREMISES

16. Under the present law, local authorities may resolve not to grant or renew section 34 permits for classes of premises in their area, or to limit the number of machines particular classes of premises can use. This Authority has passed a resolution prohibiting machines in certain types of premises e.g. cafes. However, this power does not apply to alcohol licensed premises or to amusement arcades.

CONDITIONS ATTACHED TO SECTION 34 PERMITS

17. Local authorities have the power to limit the number of gaming machines on a case by case basis as described above. There is no power to attach conditions to section 34 permits. They can only decide to grant or reject the application and in doing this they have absolute discretion. All cases must be rejected on their merits and authorities must have lawful reasons for rejecting an application for the grant or refusal to renew a permit.

ENFORCEMENT

18. Local Authorities will not assume any new enforcement powers as a result of this change. Breaches are a matter for the Police and only the Police have powers of entry and inspection.

PERIOD OF TIME PERMITS IN FORCE

19. Under the 1968 Act, permits must be issued for at least three years. Although premise licences last indefinitely, permits must still be given a defined duration. The DCMS recommends that new or renewed permits be issued for three years.

FEES

20. The current fee is £32.00.

TRANSITION ARRANGEMENTS – AWP MACHINES

21. Between 24 November 2005 and 8 January 2006 any renewal applications made to the licensing justices which remain unresolved will be passed to the relevant local authority for determination. In such cases the existing permit will be automatically extended until the local authority resolves the application.

PRIZE GAMING PERMITS- SECTION 16 LOTTERIES AND AMUSEMENTS ACT 1976

BACKGROUND

22. Section 16 permits allow the playing of certain games and lotteries for prizes commercially, within certain specified money limits. Section 16 permits are not intended to be used for authorised gaming machines. The licensing justices currently are responsible for granting such permits to alcohol licensed premises. Local authorities have responsibility for granting such permits to other types of premises.
23. Local Authorities will assume responsibility for licensing alcohol premises in relation to section 16 permits from 24 November 2005.

ALCOHOL LICENSED PREMISES

24. Under the existing law, premises with a Part IV Justices licence (hotels and restaurants) cannot obtain a permit under section 16. That limitation is now being removed under the Licensing Act 2003. Any premises with a premise licence for the sale/supply of alcohol on the premises will therefore be entitled to apply for a section 16 permit on or after 24 November 2005.

LOCAL AUTHORITIES NEW RESPONSIBILITIES

25. Local Authorities will be responsible for issuing new section 16 permits to alcohol-licensed premises or the renewal of permits previously granted by the licensing justices.
26. All existing section 16 permits for alcohol licensed premises will remain valid.

FEES

27. A fee of £32.00 will be able to be charged.

TRANSITIONAL ARRANGEMENTS

28. These are the same as far section 34 permits.

SECTION 6 GAMING ACT 1968**BACKGROUND**

29. Section 6 of the Gaming Act 1968 entitles holders of justices' on-licences under the Licensing Act 1964 to apply to licensing justices for authority to play certain games on their premises.
30. Licence holders are automatically entitled to play dominoes and cribbage (subject to any conditions the licensing justices ' may set). Other games may be played but such games must be equal chance gaming (e.g.bingo, bridge) and no charges for taking part , or levies on stakes or winning may be made.
31. Justices also have the power to impose conditions or restrictions by order, concerning the playing of all games on licensed premises(including dominoes and cribbage) to ensure that :
- gaming for high stakes does not take place
 - gaming does not become the main inducement for people to attend the premises.

An order has no fixed duration , but can be revoked or varied by the Justices' if there are lawful reasons to do so.

LOCAL AUTHORITIES RESPONSIBILITIES

32. The responsibility for gaming in alcohol licensed premises are transferred to local authorities from 24 November 2005. The meaning of alcohol licensed premises is the same as AWP permits. Thus, any hotel or restaurant with a bar will be able to apply for a section 6 order. Hotels and restaurants, which serve alcohol only with food, will not.
33. If a local authority makes an order under section 6 it must send a copy of the notice of the order to the local police.

FEES

34. There is no separate fee payable by applicants . Applicants are likely to apply in conjunction with an application for an alcohol licence under the 2003 Act . The DCMS view is that authorities should be able to deal with these administratively.

TRANSITIONAL ARRANGEMENTS

35. All existing orders will remain valid unless a local authority subsequently revokes or varies them.

DELEGATION OF FUNCTIONS

36. The grant of permits under section 34 of the Gaming Act 1968, section 16 of the Lotteries and Amusements Act 1976 and orders under section 6 of the Gaming Act 1968 remain a function of that Act. It does not become a function of the Licensing Act 2003. However, the exception to this is that local authority committees established under section 7 of the 2003 Act are authorised to deal with applications under sections 6 and 34 of the Gaming Act 1968 and section 16 of the Lotteries and Amusements Act 1976.

37. The Statutory Licensing Committee is therefore authorised to deal with the transferred responsibilities. Following DCMS guidance it is therefore proposed that the exercise and delegation of these functions be divided between the Director of Legal services and the Statutory Licensing Committee as set out below.

Matter to be dealt with	Full Committee	Officer
Grant/ renewal section 34 permits for up to two AWP machines- alcohol licensed premises		Yes
Grant/ renewal section 34 permits exceeding two machines – alcohol licensed premises	Yes	
Grant/ renewal section 16 permits – alcohol licensed premises		Yes
Change of name as a result of conversion of Justices Licence/Premises Licence		Yes
Orders under section 6 of the Gaming Act 1968	Yes	

COMMENTS OF THE DIRECTOR OF FINANCE

37. There are no financial implications associated with this report as the anticipated income from fees has already been built into budget assumptions.

COMMENTS OF THE HEAD OF HUMAN RESOURCES

38. There are no apparent HR implications to this report.

RECOMMENDATION

39 (1) That the report be noted

- (2) That the delegation scheme be approved as set out above.
- (3) That Council be asked to amend the Constitution accordingly.

REASONS FOR RECOMMENDATION

40 To ensure efficient administration of the new responsibilities as a result of the Licensing Act 2003.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

41. The only other option would be for the Statutory Licensing Committee to determine all applications which would be time consuming for members and could cause delays in processing applications.

ROSEMARY A LYON
DIRECTOR OF LEGAL SERVICES

Background Papers			
Document	Date	File	Place of Inspection
Letter from DCMS	12 November 2005		Legal Services, The Coach House, Duxbury

Report Author	Ext	Date	Doc ID
C Hallwood	235809	18 November 2005	NEWREP

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