

**DELEGATION OF LICENSING AUTHORITY  
FUNCTIONS IN ACCORDANCE WITH SECTION 152 –  
GAMBLING ACT 2005.****Report By: HEAD OF ENVIRONMENTAL HEALTH AND TRADING  
STANDARDS****Wards Affected:**

County-wide

**Purpose:**

1. For the committee to consider whether they wish to delegate its function under Section 152 to a Licensing Sub-Committee and in certain circumstances to an officer.

**Law:**

2. Section 2 – Gambling Act 2005 states that the ‘ a district council is a Licensing Authority.
3. Section 154 of the Act ‘Delegation of Licensing Authority Functions’ states: -
  - (1) The functions under this Part of a licensing authority in England and Wales are by virtue of this subsection delegated to the licensing committee of the authority established under section 6 of the Licensing Act 2003.

Section 6 of the Licensing Act 2003 states: -

Each licensing authority must establish a licensing committee consisting of at least ten, but not more than fifteen, members of the authority.

4. In the case of Herefordshire Council the Licensing Committee is the Regulatory Committee.
5. Guidance issued by Department of Culture Media & Sport (DCMS) in respect of Section 154 states that: -

Decisions that are delegated to the licensing committee may be further delegated to a sub-committee of the licensing committee, except

- a resolution not to issue casino licences, which must be taken by the whole authority
- functions in relation to the three-year licensing policy, which must be taken by the whole authority; and
- setting fees (to the extent that a licensing authority has delegated power in relation to fees). The licensing authority can delegate decisions to the licensing committee, but there is no automatic delegation, so each authority must decide its approach to setting fees.

Decisions that are delegated to a licensing sub-committee, may be further delegated to an officer of the authority; except that the following decisions may not be made by an officer (i.e. they must be made by either the sub-committee or the licensing committee): -

- determination of an application for a premises licence where representations have been made and not withdrawn;
- determination of an application for variation of a premises licence where representations have been made and not withdrawn;
- determination of an application for transfer, following representations by the Commission;
- determination of an application for a provisional statement where representations have been made and not withdrawn; and
- determination of a review of a premises licence.

A summary table has been prepared by DCMS showing the delegations permitted **(Appendix 1)**.

### **Options**

5. There are three options available to the Committee:
  - a) To delegate the responsibilities as shown in the table **(Appendix 1)**
  - b) To amend the table in to reflect different levels of authority and then agree it
  - c) To refuse to delegate the authority thereby requiring all applications to be dealt with by the Regulatory Committee.