Application for the Revocation of Small Society Lottery Registrations

Report of: Executive Director, Economy Place and Skills

Portfolio Responsibility: Community Safety and Public Protection

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Purpose of Report

The purpose of this report is to ask Members to revoke immediately the small society lottery registrations under the Gambling Act 2005 relating to Mr Francis Ward for societies know as Oldham Athletic AFC Development Society and North West Sports Development Association.

Recommendations

Members are asked to:

i) note the report; and
ii) consider whether the circumstances necessitate a revocation.
EXECUTIVE DECISION RECORDING SYSTEM
REFERENCE NO:

LICENSING PANEL

Application for to Revoke Small Society Lottery Registrations

1 Background

1.1 A small society lottery is a body who are established and conducted for charitable purposes, for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity or for any other non-commercial purpose other than that of private gain.

1.2 A lottery is registered with the Local Authority for which the principal office of the society is registered and must comply, once registered, with the requirements of the Gambling Act 2005 in relation to the running of the lottery and the submission of returns to the Local Authority.

1.3 Under Para 39 of Part 4 of Schedule 11 of the Gambling Act 2005 the society is required to submit a statement to the Local Authority which must include:

- Arrangements for the lottery;
- Proceeds;
- Amounts deducted by the promoters in respect of prizes;
- Amounts deducted by promoters in respect of other costs incurred;
- Any other amounts applied;
- Any other money defrayed

The statement must be sent to the Local Authority within 3 months of the date of the draw or last draw.

2 Current Position

2.1 Mr Francis Ward currently holds two lottery registrations relating to the:

i) Oldham Athletic AFC Development Society; and
ii) North West Sports Development Association

2.2 Whilst Mr Ward has previously been employed by Oldham Athletic FC he is not currently known to have any links with the club and the lottery is not held or administered by the club who now have their own lottery registration.

2.3 The Licensing Team first became concerned about the conduct of the lottery administered by Mr Ward in April 2009 when it wrote to Mr Ward requesting his lottery returns under Schedule 11 of the Gambling Act 2005.

2.4 Alongside the request for submission of the returns complaints began to be received by the Council, the Gambling Commission and Oldham Athletic
Football Club about the conduct of the lottery and how it was being administered. A meeting was subsequently held on 10 September 2010 between Mr Ward, the Principal Licensing Officer and the Gambling Commission. At this meeting Mr Ward gave various reasons for why returns had not been submitted including his ill health and other personal reasons. A date was agreed for the submission of all returns up to date of the 24th September 2010.

2.5 A return was finally submitted for the period 5th April 2009 to 26th December 2009. This return was received on the 1st October 2010. An email followed on the 20th October 2010 stating that Mr Ward was having difficulty in submitting further returns due to ill health and other family issues.

2.6 Having heard nothing further from Mr Ward by the 19th November 2010 a letter was served on Mr Ward advising him of a further deadline of the 26th November 2010 to submit his returns and other evidence or formal action would be considered. This did prompt a response from Mr Ward stating that he had been away following another bout of illness and had suffered other family issues. He indicted his returns would be submitted by the 30th November 2010. By the 20th December 2010 a final warning was issued to Mr Ward to submit his returns by the 7th January 2011 or action would follow.

3 The Status of the Lottery

3.1 Officers have serious concerns about how this lottery has been administered in the recent past. The failure to submit returns for the year 2010 has led Officers to draw an adverse inference and consider that the lottery is not being run in accordance with the legislation covered by the Gambling Act 2005.

3.2 The return submitted for the period ending 26th December 2009 has raised further concerns which Officers have been unable to discuss with Mr Ward due to his un-willingness to co-operate and submit the information required of him.

3.3 Officers are currently considering whether other forms of enforcement action need to be taken against Mr Ward but in the meantime it is felt that the only course of action is to revoke the current lottery until such a time that further investigations can be carried out into its administration.

3.4 A number of complaints have been received by the Council, Gambling Commission and Oldham Athletic FC about the conduct of this lottery.

3.5 Mr Ward has been advised of the application made to revoke the registration and the reasons for it. He has been notified of his right to make representations. Members will be advised at the hearing if written representations have been received unless Mr Ward appears in person.
4 Options

4.1 Members have the option to either:-

- Take no action;
- Revoke the registration immediately; or
- Revoke the registration from a date not exceeding two months.

5 Guidance

5.1 The guidance issued by the Gambling Commission states under Para 34.23 of its May 2009 version that:
A licensing authority may only refuse an application for registration after the society has had the opportunity to make representations. These can be taken at a formal hearing or via correspondence. Licensing authorities should inform the society of the reasons why it is minded to refuse registration and provide it with at least an outline of the evidence on which it has reached that preliminary conclusion – in order to enable representations to be made. Representations and objections that may result after such a decision should be handled in accordance with local procedures, and in the same way that the authority would handle representations relating to other licensing matters. The Commission considers that, as a matter of good practice, licensing authorities should set out, perhaps on their website, the principles they will apply in such circumstances.

6 Legal Services Comments

6.1 Under Section 258 of the Gambling Act 2005 it is an offence to promote a lottery unless it is an exempt lottery. An exempt lottery is one which is exempt by virtue of the provisions of Schedule 11 of the Act. One of the exemptions in Schedule 11 is contained in Part 4 of the Schedule and relates to small society lotteries. A small society lottery is one promoted wholly on behalf of a non commercial society (known as the promoting society). Under Para 38 of Schedule 11, the promoting society of a small lottery must, throughout the period during which the lottery is promoted, be registered with a local authority in accordance with Part 5 of the Schedule.

6.2 Under Para 48 of Part 5 of Schedule 11, a local authority may refuse an application for registration if they think that the applicant is not a non commercial society. Under Para 50 of Part 5, a local authority may revoke a registration if they think that they would be obliged or permitted to refuse an application for the registration were it being made anew. However, a local authority may not revoke a registration under Part 5 unless they have given the registered society an opportunity to make representations. There is a right of appeal to the magistrates’ court within 21 days of notification of the local authority’s decision to revoke the registration.
Equality, community cohesion and crime implications

None

8.0 Background Papers

8.1 Held by the Contact Officer

9 Appendices

9.1 None