

REPORT OF CORPORATE DIRECTOR OF CITY DEVELOPMENT

THE GAMBLING ACT 2005

1 SUMMARY

This report informs members about the current and emergency reforms of national gambling legislation. It confirms that the Council will be a Licensing Authority for the gambling regime and confirms role of the Authority within the regime.

2 RECOMMENDATIONS

It is recommended that the Committee notes this report.

3 BACKGROUND

3.1 The Need for Reform

- § The existing legislation is complicated and hard to understand.
- § It is unable to cope with technological developments e.g. internet gambling.
- § It is embedded in a past culture where gambling was seen as morally questionable.
- § Approximately 74% of adults in the UK participate in some of gambling activity, e.g. national lottery
- § Local Authorities will issue licences for premises to be used within their local areas as they are better placed to integrate policy on licensing with wider community strategies on crime prevention and planning

3.2 Key Features

At the centre of the Act there are 3 licensing objectives to ensure that:

- § Gambling remains crime free
- § Gambling is conducted openly and fairly; and
- § Children and vulnerable adults are protected.

The Act also establishes a new regulator, the Gambling Commission, and gives new powers to licensing authorities.

3.3 The Gambling Commission

The Commission is the new regulator for gambling in Great Britain, replacing the Gaming Commission. It will licence bingo, bookmakers, casino operators, pools operators, certain lottery operators and managers, gaming machine manufacturers and suppliers and remote gambling operators.

The Commission is responsible for producing and issuing codes of practice and guidance for operators, licensees, licensing authorities and enforcers.

The Commission will issue operating and personal licences and will investigate and prosecute illegal gambling.

3.4 Licences

Three types of licence are created by the Gambling Act.

Operating Licences – required where someone intends to provide facilities for gambling. Also required in relation to the sale/manufacture/maintenance of gambling equipment.

Personal Licences – required by persons directly involved in the outcome of gambling e.g. croupiers and others involved in ‘behind the scenes’ activities.

Premises Licences – will be issued by the licensing authorities to persons holding an operating licence and, in many cases a personal licence, to allow premises to be used for gambling.

3.5 The Role of the Authorities

Licensing Authorities will have responsibility for:

- § Licensing gambling premises;
- § Issuing permits for licensed Family Entertainment Centres (category D (lowest stake machines suitable for use by children) machines only);
- § Issuing permits for gaming and gaming machines in members’ and commercial clubs, miners’ welfare institutes and licensed premises;
- § Issuing permits for prize gaming
- § The registration of small scale lotteries; and
- § Enforcing Temporary Use Notices and issuing Provisional Statements.

3.6 An Authority must also:

- § Publish a licensing policy with a life which must be reviewed at least every 3 years setting out the principles to be applied by the authority.
- § Consider applications for premises licence
- § Make arrangements for the Committee responsible for alcohol licensing to take on gambling premises applications.
- § Maintain a register of premises licensed in it's area that is made available to the public.

The authority may also resolve not to issue casino premises licences taking into account local circumstances. However such a resolution has no effect on casino premises licences which are already in force at the time the resolution takes effect and these may continue to trade. Where such a resolution is passed it has to be published as part of the Licensing Authority's Policy Statement and will lapse after a period of 3 years unless a further resolution is passed to the same effect.

3.7 Casino Advisory Board Panel – Calls for Proposals

The Government have established a Casino Advisory Panel to research and provide advice on the implementation of the Gambling Act 2005 and the geographical distribution of casino premises licences. The Secretary of State will be required to specify in an Order which licensing authorities should be permitted to issue casino premises licences of a specified kind. The Act specifies that there will be no more than one regional size casino along with eight large casinos and eight small casinos. All authorities have until 31st March 2006 to make a submission to the CAP and any authorities which do not do so will be unable to grant new casino licences under the 2005 Act for the foreseeable future. The form and content of that submission is heavily prescribed by the CAP. In order to safeguard Nottingham City Council's future opportunity to consider and grant new casino licences, officers are currently working to prepare that submission.

3.8 The Application Process

The process is basically the same as for applications under the Licensing Act 2003:

- § Consider the validity of the application
- § Have regard to the licensing objectives and guidance
- § Take account of valid representations
- § Decide on conditions
- § Grant or refuse the application
- § Give reasons for the decision
- § Any appeals are made to the Magistrates' Court

Hearings will be necessary before a licensing panel in certain circumstances eg to consider representations or where it is proposed to exclude default conditions or impose individual ones (see below).

3.9 Conditions

Three types of conditions are to be attached to premises licences.

Mandatory – set by the Secretary of State and must be imposed on a premises licence. These cannot be altered.

Default – set by the Secretary of State and must be imposed on a premises licence unless the authority decides not to in particular cases.

Individual – set by the authority on a case by case basis based on representations received and controls offered by the applicant or deemed necessary in promotion of the licensing objectives.

3.10 Monitoring and Inspection

Licensing authorities will monitor compliance with premises licences. An Authority can appoint its officers as “Authorised Persons” for the purpose of the Act.

An authorised person has the power to enter and inspect premises for compliance with the Act and to prosecute certain offences under the Act.

3.11 Appeals

Appeals may be made by applicants and those making representation in respect of the decision made by an authority in respect of a premises licence.

In the case of a review of a licence, the applicant for the review and the Gambling Commission may also appeal.

Magistrates’ may dismiss the appeal, substitute a new decision, remit the case back to the authority and make an order about costs.

3.12 Start-up Costs

Provision was made for start-up costs through the Revenue Support Grant during 2004/05 and 2005/06. Start-up costs include:

- § Formulation of and consultation on, the 3 year licensing policy
- § Additional staff and staff training
- § Access to records from the Magistrates’
- § Additional software and hardware requirements.

The level of costs is not known.

3.13 Fees

Fee bands will be set with prescribed maximums for premises licences based on rateable value. Fee setting can be devolved to high performing authorities as judged by the Corporate Performance Assessment (CPA) Scheme.

3.14 Training and Communication

Training needs for members and offices is currently being identified and arrangements will be notified in due course.

The DCMS website (www.culture.gov.uk) has a dedicated webpage for gambling and racing matters. That page gives access to a range of items covering matters currently live and those subject to consultation.

Regular updates to Chief Executives and emails to licensing services will be a feature during 2006 as will be a series of road-shows and training events.

3.15 Indicative timescales

These are still emerging. It is expected that the Gambling Commission will publish its guidance to Licensing Authorities in the late Spring. The Authority will need to publish its policy by the end of 2006 and the first applications for premises licence will arrive in early 2007.

4 FINANCIAL IMPLICATIONS

4.1 As can be seen, the report presents a further significant change to the licensing laws and a transfer of responsibility from the Magistrates' Courts to the City Council involving the final element of the former licensing regime. The anticipated implementation date is early 2007, and indications at this stage are that the Act is on course to be fully enacted by that time.

4.2 At this stage the level of income from fees is unknown, as the fees may be set by statute, and a Government announcement is awaited. However, it may be necessary to adjust the level of resources employed once the level of fees and income is known and the licensing system is finalised.

4.3 It is not anticipated at this stage that there will be a need to increase the establishment of the service to deliver this regime. There are two posts in the Licensing Service that are on two-year contracts and they will be reviewed in the light of the additional work that this regime will bring.

5 LEGAL IMPLICATIONS

These are contained within the body of the report.

6 OBSERVATIONS OF OTHER OFFICERS

None.

7 EQUAL OPPORTUNITIES IMPLICATIONS

None.

8 STRATEGIC AIMS

§ **Creating a more attractive place to live, work and visit.**

§ **Making Nottingham a safer city** – Working with communities and partners to reduce crime and fear of crime and promoting community safety;

9 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

None

10 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

Gambling Act 2005

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