

REPORT OF LEAD SERVICES DIRECTOR, CITY DEVELOPMENT

GAMBLING ACT 2005 - GAMBLING POLICY

1 SUMMARY

As a Licensing Authority for the purposes of the Gambling Act 2005, the Council is required to produce and publish a Statement of Gambling Policy (the Statement). The proposed Statement is a working draft and will be circulated at the meeting for information prior to its submission to Full Council for approval for public consultation.

2 RECOMMENDATIONS

IT IS RECOMMENDED THAT the Committee notes the report and is invited to comment on the current draft Policy.

3 BACKGROUND

3.1 As a Licensing Authority for the purposes of the Gambling Act 2005, the Council is required to produce and publish a Statement of Gambling Policy (the Statement). The proposed Statement is being finalised and will be available at the meeting for members prior to its submission to Full Council for approval for public consultation.

3.2 Details of the method of consultation will be set out in the report to Council together with the estimated cost for the operation of the gambling regime and a draft timetable outlining relevant dates in the transfer of the new licensing functions to this Authority.

3.3 The Statement has a life of three years and its purpose is to inform individuals making application for licence, of the Authority's principles in supporting the licensing objectives within the framework of the approved guidance issued by the Gambling Commission, which is responsible for issuing guidance and Codes of Practice under the Act.

3.4 The regulatory framework introduced by the Act is based on three licensing objectives:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- ensuring that gambling is conducted in a fair and open way; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

In undertaking its duties the Authority is required to permit gambling in so far as it thinks it reasonably compatible with the pursuit of these objectives, regulations, guidance and codes of practice issued under the Act and its own Statement of Policy.

3.5 The Act gives licensing authorities a number of important regulatory functions in relation to gambling. Their main functions are to:

- license **premises** for gambling activities;

- consider notices given for the temporary use of premises for gambling;
- grant permits for gaming and gaming machines in clubs and miners' welfare institutes;
- regulate gaming and gaming machines in alcohol licensed premises;
- grant permits to family entertainment centres for the use of certain lower stake gaming machines;
- grant permits for prize gaming;
- consider occasional use notices for betting at tracks;
- register small societies' lotteries.

Spread betting is regulated by The Financial Services Authority.

Remote Gambling, Operator Licences and Personal Licences are dealt with by the Gambling Commission.

The National Lottery is regulated by The National Lottery Commission.

- 3.6 The Authority will also have wider powers of inspection, compliance and enforcement in relation to premises licensed for gambling.
- 3.7 A draft Statement of Gambling Policy for the City is being produced as part of the preparation for this further and final element of the transfer of licensing responsibility from the courts to local authorities. The draft Statement will need to be approved for consultation with partners and stakeholders in the licensing process by Full Council in July. Following that consultation the Statement may be revised before submission to members for final approval later this year. The content of the Statement is to a certain extent prescribed by legislation. The Statement has been written with regard to the issues that are recognised by the Government and Gambling Commission as being key to the aims of the regime and has to be fundamentally in accordance with the Guidance issued by the Commission. The Statement will be instrumental in the decision-making process of the Licensing Committee and its sub-committees.
- 3.8 Necessary regulations, additional guidance and codes of practice are timetabled for Introduction during 2006 into mid-2007. Appendix 1 refers to the current timetable for the regime. Some of these may shape the decisions that may be taken by the Authority when the regime goes live in 2007 and officers will, through the Gambling Steering Group, be consulting with local/regional partners and stakeholders and will respond through the local government advisory body LACORS, on matters that appear to affect the Council and its community.
- 3.9 At present it is estimated that there are some 600 premises currently licensed for gambling. As with the alcohol licensing regime there will be a period of transition and existing terms and conditions will be preserved by the process of grandfather rights. At a time to be set all existing licences will require to be transferred into the new regime. The Government expects this to be a simple administrative change of like-for-like. The process for new applications, variations and transfers will be very similar to the Licensing Act 2003 regime. Representations, committee processes, reviews and appeals are also broadly similar to those under the Licensing Act 2003.

3.10 Section 166(1) of the Act allows licensing authorities to adopt a 'no new casinos' resolution. This has the effect of the Council resolving not to grant any further premises licences for casino premises anywhere within the City's boundaries. Details of the implication of such a resolution are attached as appendix1.

4 FINANCIAL IMPLICATIONS

4.1 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. The estimated cost to produce and publish the Gambling Policy in accordance with the Act, regulations and guidance is £15,000 which is expected to be met from existing resources.

5 LEGAL IMPLICATIONS

These are contained within the body of the report.

6 EQUAL OPPORTUNITIES IMPLICATIONS

None.

7 STRATEGIC AIMS

The Statement of Gambling Policy sets out the matters to which the Authority will have regard when determining applications for licence under the Gambling Act 2005. The Gambling Policy thus has a part to play in the Developing Neighbourhood Focus objective by:

- addressing issues surrounding the effect of licensed premises on the public realm in terms of gambling;
- addressing crime and disorder issues arising out of, associated with, and supported by gambling;
- Supporting community engagement within the boundaries of the legislation;
- Protecting children and vulnerable persons from being harmed or exploited by gambling;

and in the Developing Customer Focus objective by formalising the standards and principles by which the licensing of gambling functions will operate.

8 List of background papers other than published works or those disclosing confidential or exempt information

None.

9 Published documents referred to in compiling this report

Guidance to Licensing Authorities, April 2006

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APPENDIX 1

CASINO RESOLUTIONS

Section 166(1) of the Act states a licensing authority may resolve not to issue casino premises licences.

The decision to pass such a resolution may only be taken by the authority as a whole and is not an executive function, nor can the decision be delegated to the licensing committee. In passing such a resolution the authority may take into account any principle or matter, not just the licensing objectives. Where a resolution is passed, it must be published by the authority in its three year licensing policy statement.

The resolution must apply to casino premises generally, so that the authority cannot limit its effect to geographic areas or categories of casinos. The resolution must specify the date it comes into effect. The authority may revoke the resolution by passing a counter-resolution though the resolution will lapse three years after it takes effect in any event. The authority should therefore pass a resolution every three years to keep such a policy in place.

A resolution not to issue casino premises licences will only affect new casinos. It will not have any effect on casino premises licences issued before the resolution takes effect or on provisional statements issued before that date. Similarly a resolution will not affect the ability of existing casinos with preserved entitlements from the 1968 Act from continuing to operate as casinos.

Casino operators with licences granted under the 1968 Act will be eligible to be granted a casino premises licence under “grandfathering” arrangements. The monitoring of these licences will be undertaken by licensing authority officers.

These premises licences will be subject to the normal system of (licence) review. Where a licensing authority in whose area there are existing casinos has passed a “no new casinos” resolution, the fact that such a resolution has been passed will not be a relevant factor to take into account when considering reviews of such premises licences.