

## Agenda Item 21

Licensing and Enforcement Committee 12 June 2006

Executive Board 21 June 2006

JT/RP



## Gambling Act 2005 – Draft ‘Statement of Principles’ and the Role of the District Council

### Summary

This report consults the Executive Board on the draft Statement of Principles (Gambling Policy) prior to public consultation and outlines the implications of the Gambling Act 2005 on the District Council.

### Recommendation

That Executive Board notes the report and recommends the draft ‘Statement of Licensing Policy’ to Council for approval for public consultation, subject to the Head of Legal and Member Services being able to make any changes necessary before the policy goes out to consultation to take into account any further Government guidance and/or regulations

#### a) Reasons for Recommendation

The Council is required to have a ‘Statement of Licensing Policy’ in order to carry out its statutory functions under the Gambling Act 2005.

#### b) Alternative Options

To amend the proposed policy within the legal and guidance limitations which apply

#### c) Risk Considerations

None known

#### d) Policy and Budgetary Considerations

Explained within the report

#### e) Date for Review of Decision

N/A

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## 1 Main Body of the Report

### 1.1 Background

1.1.1 The Gambling Act 2005 received Royal assent on the 7 April 2005. It gives effect to the Government’s proposals for the reform of gambling law. The main purposes of which are: -

- To modernise and consolidate outdated legislation but not to deregulate,
- Promote gambling as an acceptable leisure activity



- Remove outdated restrictions on Casinos and regulate new gambling technologies
- 1.1.2 The Act has had a contentious introduction and will impact on Amusement Arcades; Alcohol Licensed Premises; Private Clubs; Bingo Clubs; Casinos; Betting Offices and Lotteries including Charitable Fund Raising.
- 1.1.3 Central to the Act are three core objectives. They are: -
  - Preventing gambling from being a source of crime and disorder, being associated with crime and 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
- 1.1.4 The Gambling Act 2005 repeals the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976.
- 1.1.5 The Act has introduced a unified regulator for gambling in Great Britain, the Gambling Commission, and a new licensing regime for commercial gambling to be conducted by the Commission or by licensing authorities (as already set up by the Licensing Act 2003), depending on the matter to be licensed. The Act removes from the Magistrates Court all responsibility for granting gaming and betting permissions, which they exercised previously. Instead, the Commission and licensing authorities will share between them responsibility for all matters previously regulated by the magistrates.
- 1.1.6 From 2007 the Commission will be responsible for granting operating and personal licences for commercial gambling operators and personnel working in the industry. It will also regulate certain lottery managers and promoters.
- 1.1.7 Licensing authorities (District Councils etc.) will have new powers to license gambling premises within their districts, as well as undertaking functions in relation to lower stake gaming machines and clubs. The Act also provides for a new system of temporary use notices. These will authorise premises that are not generally licensed for gambling purposes to be used for limited periods only for certain types of gambling.
- 1.1.8 Parallels can be drawn with the terminology and principles used within the Licensing Act 2003, although the number of premises effected by the introduction of this legislation will be far fewer.

## **1.2 Functions of Licensing Authorities**

- 1.2.1 The licensing authority will have the following functions:
  - licensed premises for gambling activities including betting shops, bingo and adult gaming centres
  - 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.

Unlike the Licensing Act 2003 the District Council does not have the responsibility for issuing personal licences. This will be the Gambling Commission's responsibility.

- 1.2.3 Section 34(1) (aa) of the Gaming Act 1968 allowed gaming machines in unlicensed premises such as fish and chip shops. That Act however permitted licensing authorities to pass a resolution that permits would not be granted in respect of premises of a certain class specified in the resolution. On the 1 October 1985 this Council resolved that retail shops, cafes, takeaways etc. would not be granted permits to allow the use of amusement with prizes machines. The Gambling Act 2005 has no equivalent to Section 34(1) (aa) of the Gaming Act 1968 because the new Act already contains this restriction. This means that the prohibition imposed by the council's resolution in 1985 continues although because of the legislation change the resolution will have no effect after the Second Appointed Date.
- 1.2.4 The licensing authorities will have a duty to provide information to the Gambling Commission including details of licences, permits and registration issued. The Gambling Commission is still consulting on the best way for this to be done.
- 1.2.5 Every three years licensing authorities will be obliged to prepare and publish a statement of principles that they propose to apply when exercising their functions. This statement of principles may be referred to as a 'policy' and the procedure laid down in the Act for producing it must be followed, including whom to consult. Further information on the 'Statement of Licensing Policy' is at paragraph 1.6 below.

### **1.3 Responsibilities and Delegations**

- 1.3.1 All matters relating to this Act are delegated to the Licensing Committee (Licensing & Enforcement Committee) set up under the Licensing Act 2003 with the exception of:
- The three year licensing policy (Must be approved by full Council)
  - Policy not to permit casinos (full Council); and
  - Fee setting (but only allowed if the authority is rated "excellent" in its CPA assessment – in all other cases the fees will be set by the Government)
- 1.3.2 Licensing Committees may then delegate further to Licensing Sub Committees and officers and the Gambling Commission has produced a suggested scheme of delegations similar in approach to that used for the Licensing Act 2003. If representations are received on applications then there will be hearings in a similar way. Proposed delegations will be the subject of a separate report to be brought to this Committee on the 6 November 2006.

### **1.4 Casinos**

- 1.4.1 The Government has limited the number of 'new' Casinos that can be created after the 29 April 2006 (for a period of up to three years) to 17. More specifically to: -
- 1x Regional Casino (min. 5,000 m<sup>2</sup> floor space)
  - 8x Large Casinos (min. 1,500 m<sup>2</sup> floor space)
  - 8x Small Casinos (min. 750 m<sup>2</sup> floor space)
- 1.4.2 The Government established a 'bidding process' for local authorities to express a formal interest in having one or more of the 17 in its area.
- 1.4.3 The Government created a 'Casino Advisory Panel' (CAP) to oversee the process and to advise it of the best 17 locations for the new Casinos.

- 1.4.4 The process for submissions to the CAP for a Casino was highly prescriptive, research intensive and to a very tight schedule. Detailed questions were expected to be answered in regard to: -
- a. Type of area
  - b. Social impact
  - c. Need for regeneration
  - d. Willingness to licence a Casino
  - e. Probability of actual implementation
  - f. Regional context
  - g. Community benefits
  - h. Unique characteristics etc.
- 1.4.5 This Council has not made a formal expression of interest in this bidding round.
- 1.4.6 Whilst the Council is empowered under the legislation to make a 'No Casino' resolution, it is not compelled to do so. It is therefore free to research and consider the appropriateness of having a Casino in its area over the next 2-3 years as part of its Economic Regeneration and Tourism Strategies, before the next bidding opportunity arises.
- 1.4.7 The target dates for the introduction of the 17 new Casinos are incorporated within the timetable in **Appendix B**.

## **1.5 Licensing Objectives**

- 1.5.1 Licensing authorities must have regard to the licensing objectives, which are:
- 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
- 1.5.2 Members will see that these licensing objectives are about how the gambling itself is conducted and not about its effect on the community as a whole. The Guidance issued by the Gambling Commission (Part 1) makes the point that licensing authorities "should be aware that moral objections to gambling are not a valid reason to reject applications for premises licences (paragraph 5.27). This is because such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers). In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not met." Members are already familiar with this with their experience with the Licensing Act 2003 and there are close similarities but also some significant differences which will be explored as part of the training and seminars offered to members on the new Act.

## **1.6 Statement of Licensing Policy**

- 1.6.1 Section 349 of the Act requires all Licensing Authorities to prepare and publish a statement of the principles that they propose to apply in exercising their statutory functions.
- 1.6.2 The Licensing Policy Statement shall last for a maximum of three years, but can be reviewed and revised as necessary at any time.

- 1.6.3 Defined bodies and persons must be consulted on the statement before it is produced.
- 1.6.4 The content of the statement is largely prescribed by regulation and as the First Appointed Day has been confirmed as the 31 January 2007 (the policy will run for three years from that date unless reviewed earlier) the Council's Statement of Licensing Policy must be in place by the end of December 2006.
- 1.6.5 A draft 'Statement of Principles' for the District Council has been prepared based on template guidance published by LACORS (Local Authority Co-ordinators of Regulatory Services), Guidance issued by the Gambling Commission and on the combined work of the Devon Licensing Officers Group of which the District Council is a member.
- 1.6.6 The proposed 'Statement of Licensing Policy' to be considered for public consultation is attached as **Appendix A** to this report.

## **1.7 Timetable**

- 1.7.1 The key target dates for the implementation of the Gambling Act 2005 are detailed in **Appendix B**.

## **1.8 Resource Implications**

- 1.8.1 There will be financial and staffing implications regarding the implementation of the Gambling Act 2005. A report will be going to the Executive Board on the 21 June 2006 on the future structure of the Licensing Team and the staffing implications of the Gambling Act 2005 will be incorporated within that report. Provision has been made within the 2006/2007 budget for the proposals included within that report.
- 1.8.2 The District Council had the foresight some years ago to invest in an excellent licensing software package (LaPac) which has been highly developed over recent years to accommodate the Licensing Act 2003. The company is currently developing a Gambling Act module which will be available to run within our existing package. It is anticipated that the new release will be available in plenty of time to allow us to handle the first applications in 2007. There will obviously be a cost implication as we will need to purchase the new software application and pay an annual up date fee. The cost of this has not yet been determined by the company but it is not expected to be substantial.
- 1.8.3 The Department of Culture, Media and Sport have advised that provision has been made available through the Rate Support Grant in 04/05 and 05/06 for the start-up costs, which are seen to be:
- Training for existing licensing officers, councillors and administrative staff
  - Staff/recruitment costs (where additional staff are required to fulfil gambling premises licensing responsibilities)
  - Additional software/hardware requirements
  - Transfer of records from licensing justices to licensing authorities; and
  - Production of the licensing authority's three year licensing policy statement, and consultation on it.
- 1.8.4 The ongoing costs of the new responsibilities under the Act will be met through initial application and annual fees for premises licences and fees for permits and other permissions. We do not yet know what the fees will be but understand that they will be set within prescribed bands which will allow us to set fees on the basis of cost recovery.
- 1.8.5 The new responsibilities will include administration of the system as well as checking compliance and taking enforcement action if appropriate.

## **Legal Implications**

### **The statement of licensing policy must comply with:**

- Regulations
- Have regard to the licensing objectives
- Have regard to Gambling Commission guidance
- Be subject to consultation and publicity in accordance with the Licensing Act 2005

The proposed policy and arrangements appear to conform with these requirements.

## **Financial Implications**

No additional financial implications are required on this report.

## **Background Papers**

- Gambling Act 2005
- Gambling Commission Guidance to Licensing Authorities issued under Section 35, Gambling Act 2005
- Casino Advisory Panel – ‘Call for Casino Proposals’
- LACORS – Local Authority Co-ordinators of Regulatory Services – Statement of Licensing Policy, Template Ver. 4

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Executive Board 21 June 2006  
Licensing and Enforcement Committee 12 June 2006

## TIMETABLE &amp; KEY TARGET DATES

|    | <b>ACTION</b>                                                                                                                                                                                                                                  | <b>DATES</b> |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| 1  | 'New' Gambling Commission replaces 'Old' Gaming Board                                                                                                                                                                                          | Oct 2005     |
| 2  | Gambling Commission published draft Statement of Principles (consultation ended 27 <sup>th</sup> January 2006)                                                                                                                                 | Oct 2005     |
| 3  | Casino Advisory Panel (CAP) writes to all Chief Executives. (Initial scoping exercise to assess workload) (deadline 31 December 2005)                                                                                                          | 11 Nov 2005  |
| 4  | Draft regulations published on minimum content of local Statements of Licensing Policy (consultation ended 24 February 2006)                                                                                                                   | 22 Nov 2005  |
| 5  | Draft guidance issued (first of three parts) (consultation ended 17 March 2006)                                                                                                                                                                | 26 Dec 2005  |
| 6  | CAP writes to all local authorities inviting formal expressions of interest in casinos (deadline for return of formal submissions 31 March 2006)                                                                                               | 31 Jan 2006  |
| 7  | Draft regulations issued by the Gambling Commission for operating and personal licences. Also, confirmation of minimum content of local Statements of Licensing Policy                                                                         | March 2006   |
| 8  | Deadline for formal expressions of interest in casinos                                                                                                                                                                                         | 31 Mar 2006  |
| 9  | Guidelines on the registration and administration of small society lotteries issued for consultation by the Gambling Commission                                                                                                                | 4 April 2006 |
| 10 | Report to Licensing and Enforcement Committee describing the effects of the implementation of the Gambling Act 2005 on the District Council and requesting approval of a draft Statement of Gambling Licensing Policy for public consultation. | 12 June 2006 |
| 11 | Report to Executive Board describing the effects of the implementation of the Gambling Act 2005 on the District Council and requesting approval of a draft Statement of Gambling Licensing Policy for public consultation.                     | 21 June 2006 |
| 12 | Report to Council seeking approval of the draft Statement of Gambling Licensing Policy                                                                                                                                                         | 12 July 2007 |
| 13 | Public consultation begins on Council's draft Statement of Licensing Policy                                                                                                                                                                    | 13 July 2006 |
| 14 | Third and final part of the guidance issued by the Gambling Commission, on licensing authorities' compliance and enforcement function, will be published for consultation during the summer.                                                   | Summer 2006  |

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|----|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| 15 | Gambling Commission will invite advance applications for operator and personal licences                                                      | 1 Sept 2006 –<br>1 Jan 2007 |
| 16 | Public consultation ends on Council's draft Statement of Licensing Policy                                                                    | 5 Oct 2006                  |
| 17 | Recommendations relating to delegated authorities for the Gambling Act 2005 responsibilities reported to Licensing and Enforcement Committee | 6 Nov 2006                  |
|    | Licensing and Enforcement Committee considers feedback from public consultation exercise on the draft Statement of Licensing Policy          |                             |
| 18 | Delegated authorities for Gambling Act 2005 responsibilities reported to Executive Board                                                     | 16 Nov 2006                 |
|    | Statement of Licensing Policy recommended to Executive Board                                                                                 |                             |
| 19 | Full Council adopts Statement of Licensing Policy and Approves Delegations                                                                   | 6 Dec 2006                  |
| 20 | Government announces the x17 winning Casino bids                                                                                             | Dec 2006                    |
| 21 | Publication of East Devon District Council's Statement of Gambling Licensing Policy                                                          | Dec 2006                    |
| 22 | Advance applications and commencement of 'transition period' (First Appointed Day) for Licensing Authorities                                 | 31 Jan 2007                 |
|    | Council's Statement of Licensing Policy comes into force                                                                                     |                             |
| 23 | Deadline for advance applications and 'continuation rights' (end of conversion period)                                                       | 27 Apr 2007                 |
| 24 | All applications considered as 'New' from this date                                                                                          | 28 Apr 2007                 |
| 25 | 'New' licences supersede 'Old' licences (Second Appointed Day)                                                                               | 1 Sept 2007                 |