

Agenda Item 8

Licensing & Enforcement Committee

24 November 2009

JT/JL



Gambling Act 2005 – Tri-annual Review of the Council's Licensing Policy and Policy Adoption

Summary

This report updates the Licensing & Enforcement Committee on the tri-annual review of the Council's Gambling Act 2005 Licensing Policy and the results of the consultation process and invites the Committee to recommend that the Council adopt the amended Licensing Policy as required by the Gambling Act 2005 at its next meeting on the 9 December 2009.

Recommendation

That the Committee:

1. Note the results of the public consultation undertaken on the Council's draft Licensing Policy relating to the Gambling Act 2005.
2. Recommend to Council at its meeting on the 9 December 2009:
 - a. To nominate in writing the Area Child Protection Committee and Local Safeguarding Children Board (Devon County Council) as the body competent to advise the authority about the protection of children from harm issues as required by the Gambling Act 2005, Section 157(h);
 - b. To adopt, for the period 31 January 2010 to 30 January 2013, the East Devon Gambling Licensing Policy as attached at Appendix A.

a) Reasons for Recommendation

It is a legal requirement for the Council to have a 'Statement of Licensing Policy' in order to carry out its statutory functions under the Gambling Act 2005. The Council's Licensing and Enforcement Committee and officers must have regard to its Gambling Licensing Policy when deciding upon licence applications.

b) Alternative Options

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

c) Risk Considerations

If the Policy is not properly adopted by the District Council the Authority will be liable to legal challenge which if successful could entail heavy costs being awarded against the District Council.

d) Policy and Budgetary Considerations

Explained within the report

e) Date for Review of Decision

December 2012 or earlier. This means that to enable the review to be completed in good time the consultation process will commence around June 2012. The Gambling Act 2005 requires that the Policy must be reviewed at least every three years although if there is a need identified it can be reviewed earlier.

1 Main Body of the Report

- 1.1 Under the Gambling Act 2005, it is the responsibility of the Council to develop and publish a Statement of Licensing Policy. The published Policy then provides the framework for all decisions on applications relating to the Gambling Act 2005 and the way the Authority carries out its functions in relation to the legislation.
- 1.2 Licensing authorities are also required to review their policy at least every three years. The Council's current Policy was adopted by Council on the 6 December 2006 and will expire on the 31 January 2010.
- 1.3 The Licensing Manager in consultation with licensing colleagues within other Devon Authorities has prepared a new draft policy based on the Council's current policy and the template policy published by the Gambling Commission. Our current policy has been updated to remove information relating to transitional matters, and to include relevant changes in legislation. Also included are proposed statements of principles to be applied to unlicensed family entertainment centres and prize gaming permits. A copy of the draft policy is attached to this report at **Appendix A**. A summary of main changes is also attached as **Appendix B**. There is also a colour version of the draft policy on the Policy Consultation page within the licensing pages of the Council's website. That version shows in colour the various additions and deletions made to the draft.
- 1.4 The District Council's draft Licensing Policy, with the changes outlined in paragraph 1.3 above included was made available for consultation on the 10 August 2009. The closing date for comments was Monday 26 October 2009.
- 1.5 In accordance with the Guidance published under Section 182 of the Act a wide consultation on the draft of the policy has been undertaken. This has provided opportunity for views and representations to be received from industry, statutory bodies, East Devon residents and other agencies.
- 1.6 This report presents the Licensing Policy and the results of the public consultation.

2. Results of consultation

- 2.1 The Consultation exercise for the licensing policy has been wide. The list of consultees is reproduced at **Appendix C**. A letter or email was sent to each of the consultees inviting them to make comment on the Policy. They were given the choice of downloading a PDF copy of the draft Policy from the District Council's website or requesting a printed copy to be sent out by post. A copy of the draft policy was placed on the Council's internet site.
- 2.2 The general public were also invited to take part in the consultation as details of the consultation were made available on the Council's website and in local newspapers. Copies of the draft policy were sent out to anyone requesting a copy and copies were made available in all Devon County Council libraries within the district as well as the Council's Information Points.
- 2.3 A total of five responses have been received in response to the consultation exercise. Four of these responses were from Parish or Town councils concerned to ensure that they had the opportunity to make representations on applications made for licences within their areas. This is already provided for in the amended policy as paragraph 8.2(b) of Part A of the policy states: 'Likewise, parish councils likely to be affected, will be considered to be interested parties'. One of the Parish Council asked to be considered as a Responsible Authority. This is not possible as the Gambling Act 2005 defines very precisely those authorities that are

Responsible Authorities and town and parish councils are not included.

- 2.4 The fifth response was from the Head of Business Strategies of the Devon County Council's Children and Young People's Services. He wrote to welcome the additional measures included within the policy to protect children and young people.
- 2.5 In the opinion of the Licensing Manager none of the responses have warranted any change to the draft policy. The five comments that have been made are listed in the table at **Appendix D** to this report. Column 6 in this document sets out the Licensing Manager's response to each of the consultation comments.

3. Child Protection

- 3.1 One of the requirements under the Gambling Act is for the council to designate in writing who it considers competent to advise the authority about the protection of children from harm.
- 3.2 As the Devon County Council's Area Child Protection Committee and Local Safeguarding Children Board based in Totnes is the responsible consultee for this authority under the Licensing Act Members may wish to nominate the same Board. (They have indicated their willingness if so nominated). There is no obvious alternative organisation that could be considered and they were similarly nominated in 2006 when the policy was originally adopted.

4. Conclusions

- 4.1 The lack of responses to the draft Licensing Policy for East Devon seems to demonstrate a general acceptance of the Policy by businesses and public alike. The comments in the main voice concern that Parish and Town Councils have the opportunity to make representations on applications made for licences within their areas. As explained earlier this is already provided for within the proposed changes to the policy.
- 4.2 The Licensing Authority must adopt a new policy prior to the 3 January 2010 in order to exercise its powers under the Act. Once the Council has approved the Gambling Act Licensing Policy on the 9 December 2009 it will be published and sent to all respondents. It will also be available through the Council's website. Existing licence holders will be up dated and advised that a copy is available on the Council's website or alternatively they can request a copy to be sent to them.

Legal Implications

The legal implications are set out within the report

Financial Implications

There are no financial implications in this review.

Appendices

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| <input type="checkbox"/> | Draft Policy for adoption | Appendix A |
| <input type="checkbox"/> | Summary of Main Changes Sheet | Appendix B |
| <input type="checkbox"/> | List of those invited to respond to the consultation | Appendix C |
| <input type="checkbox"/> | Consultation Representations and Responses | Appendix D |

Background Papers

- Gambling Act 2005
 - Guidance issued by the Gambling Commission under the Gambling Act 2005
 - East Devon District Council's Draft Policy Statement under the Gambling Act 2005 issued for consultation in August 2009
 - Gambling Commissions Policy Template
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Licensing & Enforcement Committee
24 November 2009

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