

Gambling Act 2005 – Draft Policy

Licensing Committee, item 2

Committee:	Licensing Committee	Agenda Item
Date:	8 August 2006	2
Title:	Gambling Act 2005 – Draft Policy	
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Summary

This report seeks Members comments and approval of the draft gambling licensing policy that has been drafted by the Essex Joint Licensing Officer's Forum over a number of months. Once the content of the policy has been agreed by this Committee, the policy will go out for public consultation as provided for in the Gambling Act 2005 and Secretary of State guidance, whereupon the views of the consultees will be considered further by this Committee, and the final policy agreed and recommended to Full Council for adoption

Recommendations

That the committee approve the draft Gambling Licensing Policy Statement (Appendix 1) for commencement of consultation

Background Papers

The Gambling Act 2005

Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006

Gambling Commission Guidance

Impact

Communication/Consultation	Full consultation will be carried out in accordance with the legislation and guidance
Community Safety	Effects of Gambling Licensing on Community Safety to be considered and dealt with in the policy, within the context of the Licensing objectives of preventing it being a source of crime and disorder, and protecting children and other vulnerable persons from being harmed or exploited by gambling
Equalities	Ensure that draft policy is made available to all hard to reach groups

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Finance	The precise financial implications are uncertain until clarification on fees and the application process has been published
Human Rights	None
Legal implications	The Licensing Authority will have to have regard to its Licensing Policy in determining applications
Ward-specific impacts	None
Workforce/Workplace	None

Background

- 1 The Gambling Act 2005 gives effect to the Government's proposals for reform of the law of gambling. It repeals and replaces the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976.
- 2 From 2007 the Gambling Commission will be responsible for the granting of operating licences and personal licences for those involved in commercial gambling activities. An operator's licence will be generally required to operate, make or provide facilities for gambling e.g. a company operating casinos, bingo, betting offices, adult gaming centres, family entertainment centres, manufacturing or supplying gaming machines and lotteries. A personal licence will generally be required by a person occupying a management or operational function in connection with the provision of facilities for gambling e.g. the manager
- 3 It is also required to issue guidance to licensing authorities on the manner in which they exercise their gambling licensing functions.
- 4 Councils, acting as Licensing Authorities, will have new powers to licence gambling premises within their area as well as functions in relation to lower stake gaming machines and clubs and authorisations of small local lotteries.
- 5 The functions of Licensing Authority in respect of Gambling are:
 - i. To licence premises for Gambling Activities. This includes new and existing casinos and bingo halls
 - ii. To consider Notices given for the temporary use of premises for gambling
 - iii. To grant permits for gaming and for gaming machines in private members clubs and proprietary clubs
 - iv. To regulate gaming and gaming machines in alcohol licensed premises

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- v. To grant permits for non-licensed family entertainment centres, for use of certain lower stake gaming machines
 - vi. To grant permits for prize gaming
 - vii. To consider occasional use licences for betting at tracks
 - viii. To regulate small lotteries
- 6 There are five categories of licence – casino, bingo, betting, adult gaming centre and family entertainment centre. There are special considerations in respect of casinos, which are explained at paragraph 9.
- 7 The Act contains three licensing objectives which underpin the functions of the Commission and the licensing authorities and these are:
- a. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime.
 - b. Ensuring that gambling is conducted in a fair and open way.
 - c. Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 8 In carrying out their Gambling Licensing functions, the Act specifies the principles which must be applied by Licensing Authorities in licensing premises, that they should 'aim to permit the use of premises for gambling insofar as they think it is' :-
- a. In accordance with the relevant codes of practice
 - b. In accordance with relevant guidance issued by the Commission
 - c. Reasonably consistent with the Licensing objectives (subject to a and b above)
 - d. In accordance with the Authority's statement of licensing policy (subject to a and c above)

Casinos

- 9 The Act provides for three classes of casino – regional, large and small – of which there will be one, eight and eight respectively. Due to the restricted numbers, consent had to be applied for by Councils to the Secretary of State if they wished to have a casino in their district and that timescale has already passed.
- 8 There is provision in the Act for District Council's to determine that they would not permit a casino in their district, (which would become relevant if the Secretary of State increased the number of casinos there could be.) There is no requirement for the Council to pass a resolution, and the question could remain mute, and could be revisited at any time.
- 9 Such a resolution can only be passed by Full Council and in making that decision, they may have regard for to any principle or matter including moral

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grounds. This issue is one that needs to be specifically considered as part of the consultation process, and any decision taken must be reconsidered after 3 years, if not sooner. The part of the draft policy that relates to Casinos is at and all three options have been left there currently

Gambling Licensing Policy Statement

- 10 Licensing Authorities are required to prepare and publish, every three years, a statement of the principles which they propose apply when exercising their Gambling licensing functions. This statement will be called the Gambling Licensing Policy Statement. In preparing the policy, licensing authorities must follow the procedures set out in the Act and Regulations.
12. The drafting of a statement has been achieved by a working party of Officers from the Essex Licensing Officer's forum, in the same way the policy under the Licensing Act 2003 was drafted, and is based on the LACORS (Local Authorities Coordinators of Regulatory Services). There is reference in a number of places to various appendices, which have not yet been produced, but Guidance from the Gambling Commission and secondary legislation is still awaited to enable these to be completed.
13. The draft statement has to be consulted upon, and the legislation sets out the people who have to be consulted, being:
 - The Chief Office for Police for the area
 - One or more persons who appear to represent the interests of persons carrying on gambling business in the area; and
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

A suggested list of responsible authorities appears at Appendix 2. In addition to the statutory consultees Members may also wish officers to seek the views of Town and Parish Councils and to publicly advertise that the draft policy is available for consultation.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
Members do not approve a draft policy as a basis for consultation	Low. Members have previously approved draft policies under the Licensing Act 2003 in a	High. Unless consultation takes place promptly the Council will be unable to meet its	Members adopt the draft policy as a basis for consultation with or without amendments

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	timely fashion	statutory obligations regarding the adoption of a licensing policy	
Members adopt amendments to the draft policy which run contrary to government guidance	Low. Members took part in the consultation process on the draft government guidance and there have been no significant amendments made to the guidance as a result of the consultation.	Medium. Although a policy contrary to government policy would be susceptible to judicial review the Council responded promptly and appropriately when a high court decision suggested that the licensing policy under the 2003 Act was unlawful.	Any amendments Members may wish to see to the draft should be consistent with government guidance.
Members recommend a policy of not having casinos in the district	High. Members may take a view that Uttlesford is not suited to casinos.	High. Such a policy could be the subject of a judicial review.	If Members chose to recommend a “no casinos” policy they give adequate and defensible reasons for such recommendation.