

Gambling Act Policy

Licensing Committee, item 4

Committee: Licensing Committee

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Title: Gambling Act policy

Author: Catherine Nicholson, Solicitor ext 420

Agenda Item

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Item for
decision

Summary

The Gambling Act 2005 requires the Council to adopt a licensing policy. Prior to doing so, the Council is required to carry out a broad consultation on the proposed policy. This report is to inform Members of the process of the consultation and to seek Members guidance as to what amendments (if any) Members wish to make to the draft policy in the light thereof.

Recommendations

That Members consider the representations made with regards the draft licensing policy and instruct officers as to what variations (if any) they wish to make to the draft document in the light thereof

Background Papers

Letter from East of England Faith's Council dated 20 September 2006

Letter from Bond Pearce on behalf of the Association of British Bookmakers dated 8 September 2006

Letter from GamCare dated 26 July 2006

Letter from British Beer and Pub Association to Basildon DC dated 30 August 2006

Letter from Roger Etchells and Co on behalf of amusement centre operators in Basildon to Basildon DC dated 25 August 2006

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

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	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
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

Situation

- 1 On 17th August 2006 this Committee approved a draft policy document as a basis for consultation. A date was fixed for a public meeting to consult on the policy and this was held on 5 October 2006. The draft policy document was published on the Council's website. Letters were sent to all the relevant authorities, and as many interested parties as could be identified including all current gambling or gaming licensed premises, all alcohol licensed premises, interest groups and associations and all town and parish councils. The letter stated where the policy document could be found and inviting attendance at the public meeting. The consultation was to run until 25 October 2006.
- 2 The public meeting was not well attended, and this is mirrored by the limited response to the consultation generally, which having regard to the minimal impact of the new gambling licensing regime is not unexpected.
- 3 To date the Council has received only two written responses, these being from the East of England Faiths Council and the Association of British Bookmakers. However, Members will be aware that the draft policy was developed through a working group of the Essex Licensing Officer's Forum, and any generic responses received by the Forum and other Authorities, and from the Forum itself have been included in this report.
- 4 Where amendments have been suggested to the draft policy, they have been written into the draft policy at Appendix 1 and are shown written in capital letters.

East of England Faiths Council

- 5 The Faiths Council (EEFC) seeks to ensure that Licensing Authorities have regard to the certain matters when exercising their powers under the Act. Some of these issues fall within the remit of the Commission and controls

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under the new Personal Licences it will issue as they refer to staff competency and training issues. The EEFC does refer to trying to ensure that only the lowest or lower stake gaming machines are approved but it is not felt that this is the role of the Licensing Authority provided that all the application requirements are met. The issue raised touches on the moral issue and in that sense is not a matter for the Licensing Authority, and there are sufficient controls already in place to deal with these concerns.

- 6 In addition the EEFC asks for requests for licences to 'meet' rather than be 'reasonably consistent with' the licensing objectives. However, the words used in the policy replicate exactly those in Section 153 of the Act and cannot therefore be amended
- 7 They also request that a policy be established that the location of premises being granted licences are as far away as possible from places frequented by children, young people and families. This is already covered in Paragraph 14 of the Policy, whereby location can be taken into account in the context of the Licensing objectives.

It is not felt necessary to amend the policy in light of these comments

The Association of British Bookmakers

- 8 The Association (ABB) raises issues about door supervision, betting machines, re-location applications and enforcement. On the issue of door supervision, the ABB seeks an amendment to the Policy to reflect the fact that, in its view, there is no evidence that the operation of betting offices has required door supervisors for the protection of the public. It asks that the Policy reflects Paragraph 9.26 of the Commission's Guidance on the imposition of conditions. However, under paragraph 15 of the draft Policy the paragraph in the Guidance that the ABB refers to is repeated word for word.
- 9 On betting machines, the ABB again refers to there being no evidence that Fixed Odds Betting Terminal and Amusement with Prizes machines are causing any harm and that they exist in an adult only environment. The amendment sought is reflected in Paragraph 15 of the draft policy already and is consistent with the Commission's Guidance under paragraph 19.10.
- 10 On the relocation of the same premises within the same locality, the ABB seeks to be reassured that the Licensing Authority will see this as a natural process and will positively encourage such relocation. However, it is felt that the general approach of paragraph 15 already sets out a fair and consistent procedure in line with section 153 of the Act as to how to deal with applications.
- 11 On enforcement, the ABB suggests an addition to the Policy to reflect that certain bookmakers have several premises within an Authority's area, to request a single point of contact. However, it is felt that whilst this would be helpful in an operational sense, it is not appropriate to include it in the policy or single out one sector of the gambling industry.

It is not felt necessary to amend the policy

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- 12 With regards responses received by other authorities, they are outlined below as far as they are relevant to the draft policy.

GamCare

- 13 GamCare raise several issues it feels should be included in the policy or dealt with by way of conditions. All of the issues raised are covered to some extent by the Licensing Objectives, to which the Authority are already bound to have regard, by the Policy itself in measures the Licensing Authority will consider before granting licences or permits, by proposed mandatory or default conditions, in codes of practice or in the regulations. Equally, it is not appropriate to include in the policy a list of conditions that will be applied, as each application has to be considered on its merits.

It is not felt necessary to amend the draft Policy

The British Beer and Pub Association

- 14 The Association questions the legality of the statement at paragraph 27 of the Policy in relation to premises restricted to selling alcohol with food. They point out that many premises which have alcohol Premise Licence with this restriction may also have a separate bar area where customers can wait and have a drink before a meal. As technically this is correct, suitable words have been drafted to be added to the Policy.
- 15 They also refer to Paragraph 27 and the supervision of gaming machines in alcohol licensed premise, which they feel will be included in new Codes of Practice to be issued by the Commission. They suggest the deletion of the reference to self-barring schemes on the basis that the types of machines permitted are at the softer end of the gaming market and therefore self-barring is not required. It is felt that self-barring schemes have been successful in alcohol licensed premise and the retention as an option is justified.

The policy be amended to reflect the first point made.

- 16 A company operating amusement centres in Basildon raised a comment to Basildon District Council that the draft policy as it is currently written gives the impression that the example conditions set out will be habitually imposed on applications. They state that this is not the intention of Government and is contrary to the Commissions' Guidance in paragraphs 9.22 and 9.27 whereby additional conditions should only be necessary where there are specific risks or problems, and the matter is not covered by the mandatory or default conditions. They suggest a form of wording, which it is proposed is added to paragraph 15.8 of the draft policy.

It is proposed to amend the policy as suggested

- 17 The Essex Licensing Officer's Forum, which includes representatives of the Police and Child Protection have also suggested some amendments to the draft policy, which was put out for consultation before the full Officer Forum was able to make its comments. They suggest that paragraphs 26.2 and 28.2 an addition and amendment to the policies and procedures an applicant should demonstrate when applying for permits to include a basic CRB check

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or equivalent for the applicant and/ or person in day to day control of the premises and to add that training should also cover dealing with suspected truant children. This is in line with the Commissions' guidance at paragraph 24.6 and 27.12 in terms of checking the suitability of the applicant and persons running the premises, as no operators licence need have been sought from the Commission, and is felt appropriate as these types of premises will be magnets for children and young people. In addition it is suggested that an additional paragraph in paragraph 28 requesting an applicant demonstrates their understanding of the legislative limits on the gaming permitted by the permit.

It is proposed to amend the policy as suggested

Casino Resolution

- 18 Members will recall that the draft policy contained three options in relation to making a casino resolution. 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.
- 19 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.
- 20 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 grounds. No comments have been received as part of the consultation on the issue of casinos. It is left to Members to decide whether they want to recommend making a resolution not permitting casinos. The resolution needs to be included in the Policy.
- 21 Any further consultations received between the date of preparation of this report and the end of the consultation period will be reported to the committee and its meeting, when the committee will be asked to agree a draft policy to be recommended to Full Council for adoption.

Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
Members adopt amendments to the draft policy which run contrary to	Low. Members took part in the consultation process on the	Medium. Although a policy contrary to government policy would	Any amendments Members may wish to see to the draft should be consistent with government guidance.

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<p>government guidance</p>	<p>draft government guidance and there have been no significant amendments made to the guidance as a result of the consultation.</p>	<p>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.</p>	
<p>Members recommend a policy of not having casinos in the district</p>	<p>High. Members may take a view that Uttlesford is not suited to casinos.</p>	<p>High. Such a policy could be the subject of a judicial review.</p>	<p>If Members chose to recommend a “no casinos” policy they give adequate and defensible reasons for such recommendation.</p>