

<b>Committee:</b>	<b>Licensing</b>	<b>Agenda Item</b>
<b>Date:</b>	<b>16 September</b>	<b>4</b>
<b>Title:</b>	<b>REVISION OF THE GAMBLING ACT 2005 POLICY</b>	
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## Summary

- 1 Under the Gambling Act 2005, Licensing Authorities are required to determine and publish their licensing policy for each three year period, that started on 31 January 2007. The Licensing Authority is therefore required to review its existing policy, consider whether any changes need to be made, and consult upon it, before publishing it in time for the start of the next three year period in January 2010.

## Recommendations

- 2 That the Committee consider the draft revised Licensing Policy appearing in the Appendix to this agenda and approve the same subject to such amendments as the Committee consider appropriate as a basis for consultation.
- 3 That the Committee authorise officers to carry out a full consultation exercise with statutory consultees, the public, licensees in the District, recognised Trade bodies and Town and Parish Councils and report back to this Committee on the outcome of such consultation.

## Background Papers

- 4 The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
  - The Gambling Act 2005
  - Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006
  - Gambling Commission Guidance

## Impact

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Communication/Consultation	When revising its Policy, the Gambling Act 2005 requires as a minimum consultation with the Police, Fire Authority, representatives of holders of premises licences, representatives of holders of club
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	premises certificates, representatives of personal licences and such other persons as are considered to be representative of the businesses and residents in its area.
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 and can be provided in formats that are requested
Finance	None
Human Rights	None
Legal implications	The Licensing Authority will have to have regard to its Licensing Policy in determining applications
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

## Situation

- 6 The original licensing policy of this Council, consistent with the majority of other Essex Authorities, was derived from the model developed and agreed by the Essex Joint Licensing Officers' Forum and came into effect on the 31 January 2007
- 7 The Council's policy is only valid for 3 years and needs to be reviewed in advance of January 2010. In addition, the Gambling Commission has issued revised guidance under the Act, which necessitates consideration by Licensing Authorities of their licensing policies in light of the changes in guidance that have been made
- 8 The drafting of the revised policy 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 and the original Gambling Act 2005 policy was drafted, and is based on the LACORS (Local Authorities Coordinators of Regulatory Services).

- 9 The draft Policy 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.

The intention is to consult with all those groups listed in Draft Policy at paragraph and to publicly advertise that the draft policy is available for consultation.

- 10 Once the Committee have approved a draft policy, the consultation will be undertaken. Following consideration of the responses, this Committee will be asked to approve a revised policy to Full Council for adoption as the Licensing Policy for the District for the next three years.
- 11 The policy has been amended to take into account any changes made to the Gambling Commission's guidance and to remove the references which were pertinent only to the transitional period when the Act was being introduced.
- 12 The officers have not considered it necessary to make many changes, and the key differences are:
- a. Change in title – It has decided to use the term 'Statement of Principles' rather than 'Policy Statement' or 'Licensing Policy Statement' as it is referred to in Section 349 in this manner and will also help distinguish from the Licensing Act 2003 Policy Statements
  - b. Paragraph 8.3 – to update the statement to reflect the Council's equality requirements
  - c. Paragraph 9.3 – to reflect the correct name
  - d. Paragraph 10.2 – the Gambling Commission's guidance is that no specific written evidence is required for democratically elected Members to be considered an interested person as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. This differs from the Licensing Act guidance and it is considered prudent to alter the Statement to reflect the guidance
  - e. Paragraph 13.1 – reflects the changes in best practice
  - f. Paragraph 15.3 – there have been changes in the Guidance on what constitutes split premises and it was considered appropriate to say that

any decisions would be based on the Guidance, rather than setting out in detail the amended provisions of the Guidance

- g. Paragraph 16.1 – there have been changes made to the Guidance as a result of case law over when a premises is suitable to be granted a licence rather than a provisional statement, so this provision has been changed.
- 13 There is provision in the Act for District Councils 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 and allocated provision to this area.) There is no requirement for the Council to pass a resolution, and when the policy was considered last time Members made no decision either way and stated that any application would be considered on its merits.
- 14 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. 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 Section 20 and the current position has been left there.
- 15 The revised draft Policy has been produced at Appendix 1. Deletions and additions are clearly shown.

### Risk Analysis

Risk	Likelihood	Impact	Mitigating actions
Members do not approve a draft policy as a basis for consultation	1 Members are aware of their responsibilities	3 Unless consultation takes place promptly the Council will be unable to meet its statutory obligations regarding the adoption of a licensing policy	Members do not approve a draft policy as a basis for consultation
Members adopt amendments to the draft policy which run contrary to government guidance	1 Members are aware of their responsibilities	3 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 first version of the Licensing Act 2003 policy was unlawful.	Any amendments Members may wish to see to the draft should be consistent with government guidance.

