

Body:	Licensing Act Committee
Date:	11th November 2009
Subject:	Gambling Policy (Statement Of Principles) 2010-2013
Report Of:	Kareen Plympton, Licensing Manager
Ward(s)	All
Purpose	(a) To consider the responses received following consultation exercise on the draft revised Gambling Policy. (b) Consider amendments to the Council's Gambling Policy (Statement of Principles) which provides a statement of principles the Authority propose to apply in exercising its functions under the Act. (c) Post amendments, refer the matter to Full Council for final approval.
Recommendation	1) Note, endorse, offer feedback and approve the proposed changes to the Council's Gambling Policy (Statement of Principles) which will form the Council's approach to gambling matters under the Gambling Act 2005 for the next three years, unless reviewed in the interim. 2) Delegate any further revisions prior to presentation to Full Council in November 2009 to the Licensing Manager and Portfolio Holder.
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1.0 Introduction & Background

- 1.1 The Gambling Act 2005 came into force on 1st September 2007.
- 1.2 The legislation established the Gambling Commission, a non departmental public body who advise both central and local government on issues relating to gambling. It issues new operating licences and personal licences required by the Act.
- 1.3 Once these licences are obtained from the Commission, an application must be made to the Licensing Authority, Eastbourne Borough Council, for a premises licence and associated permissions to trade.
- 1.4 As the Licensing Authority, the Council is responsible for issuing premises licences for the following:
 - Casino Premises
 - Bingo Premises
 - Adult Gaming Centre Premises

- Family Entertainment Centre Premises
- Betting Premises

- 1.5 The Act also passes the responsibility for issuing all types of Gaming Machine Permits to the Local Authority, and alters the manner in which certain categories of lotteries are registered and controlled.
- 1.6 In exercising their functions under the 2005 Act, Local Authorities must have regard to the Licensing Objectives, which are distinct and different from those contained under the Licensing Act 2003. They are:
- Preventing gambling from being a source of crime or 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.

2.0 Gambling Policy Statement Of Principles

- 2.1 To discharge its statutory duties under Section 349 of the Gambling Act 2005, this Authority is required to formulate a three year Gambling Policy (Statement of Principles) that the Council proposes to apply in exercising its functions under the Act. The current Gambling Policy was published, and runs from 1st January 2007 to 31st December 2009..
- 2.2 The Gambling Commission is required by Section 25 of the Act to issue Guidance to Licensing Authorities on the discharge of their functions under the Act. This Guidance was originally issued in April 2006 and deals primarily with matters intended to assist in the development of the Authority's Gambling Policy (Statement Of Principles) and is something that the Authority must have due regard to.
- 2.3 This Guidance has been subject to several revisions, the latest being May 2009 following emerging issues since the implementation of the Gambling Act 2005.

3.0 Policy & Consultation

- 3.1 The Gambling Policy (Statement of Principles) must be reviewed at least every three years, hence the reason for the matter being placed before Committee.
- 3.2 In approving its current Gambling Policy (Statement of Principles,) the legislation requires that such is considered by the Licensing Act Committee, Cabinet and gains final approval and sign off by Full Council.
- 3.3 This process remains unchanged, with the proposed Gambling Policy (Statement of Principles) following the same scheme of delegation, and when approved, taking effect on 1st January 2010 for a period of 3 years.
- 3.4 The draft Gambling Policy (Statement Of Principles) consultation took place from 7th August 2009 to 18th September 2009.
- 3.5 The Gambling Act 2005 requires the Authority to consult with various groups before policy is determined. These include:

- The Responsible Authorities as defined by the Gambling Act 2005
- Interested Parties” as defined by the Gambling Act 2005
- One or more persons who represent the interests of gambling businesses in Eastbourne.
- One or more persons who appear to represent the interest of persons who are likely to be affected by the implementation of the Gambling Act 2005

3.6 In addition, to enable the broadest range of people and organisations the opportunity to offer their views, a range of others were consulted, including:

- All Eastbourne Borough Councillors
- All premises licence holders who hold a permission issued under the Gambling Act 2005
- Experts in the promotion of the licensing objectives: those working with children, vulnerable adults, crime and disorder, responsible gambling and problem gambling.
- Trade Associations
- Community groups
- Hospitality Association
- Disability Involvement Group
- Various internal departments

3.6 Copies of the draft policy and feedback forms were made available on our website at www.eastbourne.gov.uk/licensing as well as copies being made available at 1 Grove Road, Eastbourne Town Hall and public access points such as Eastbourne Library.

3.7 At the time of writing this report, one item of feedback in relation to the proposed revised Policy has been received from the Council’s Development Control Department. They seek an additional sentence be added to further highlight that planning permission may be required where internal and external works are required. This will be included under Part B, entitled “Planning.”

3.8 In order to correspond with the Corporate Calendar, the draft policy has already been placed before Cabinet and gained approval on 21st October 2009. Comments are now invited from the Licensing Act Committee prior to presentation at Full Council in November 2009.

4.0 Proposed amendments To Current Gambling Policy (Statement of Principles)

4.1 The Gambling Policy (Statement of Principles) outlines the Council’s considerations in the determination of matters under the Act. The draft revised policy statement for the period 2010 - 2013 is included at Appendix 1.

4.2 Terminology within the draft revised policy statement more clearly defines the role of the Council as the Licensing Authority. As a consequence, the use of the term ‘we’ is substantially replaced with references to ‘the Licensing Authority’ or ‘the Council’.

4.3 The original policy statement 2006-2009 provided clear advice to applicants on the standards expected from gambling premises to promote the Licensing Objectives.

- 4.4 The revised policy statement 2010-2013 refines these steps in having regard to the requirements for operators as laid out in the Licence Conditions and Codes of Practice, as prepared by the Gambling Commission.
- 4.5 At the drafting and consultation stage of our original Gambling Policy, the Licence Conditions and Codes of Practice had not been finalised by the Gambling Commission, which has resulted in occasional duplication in respect of requirements set out by Eastbourne as the Licensing Authority.
- 4.6 Consequently, this revision of Policy is designed to avoid any duplication with existing regimes, in accordance with the Guidance to Licensing Authorities issued by the Gambling Commission. Typically, gambling operators are subject to regulation by the Gambling Commission and so have established and audited operational business practices.
- 4.7 This revised Policy is designed to ensure that this level of regulation is not duplicated. The Policy will ensure that concentration is focused on the potential impact of licensed premises on the own, with regard to the three licensing objectives.
- 4.8 The original policy was drafted before premises converted their existing licences for new permissions under the Gambling Act before the Gambling Commission finalised the Licence Conditions and Code of Practices that would apply to gambling operators. As such, the original policy included numerous safeguards and expectations of premises that were already addressed by the Gambling Commission and which have now been formalised.
- 4.9 The revised policy focuses on the ongoing responsibilities of licensed premises to proactively uphold the Licensing Objectives and focuses the expectations of gambling operators in Eastbourne.
- 4.10 Additionally, the policy is designed to better enable the Borough's residents, businesses and other interested parties to contribute as effectively as possible in relation to the operation of licensed premises in their area, and in understanding how they can express their concerns in relation to gambling matters.
- 4.11 A series of discussions have taken place with neighbouring Authorities regarding the form and content of the draft Policy Statement. Following this, to facilitate understanding, supplementary paragraphs have been inserted within the section entitled "Local Authority Functions" regarding decision making, the scheme of delegations, and the Human Rights Act 1998.
- 4.12 More detail regarding the proposed changes to the Gambling Policy (Statement of Principles) are outlined in Appendix 2. These have been made to reflect changes in practice, to emphasise those practices that are considered to be most important in the successful promotion of the licensing objectives and to ensure the Policy is as practicable, accessible and effective as possible.

5.0 Financial & Resource Implications

- 5.1 All fees are set centrally, and the cost of administering the service is fully recovered by way of these fees.

6.0 Recommendations

6.1 The Licensing Act Committee is recommended to:

- Note, endorse, offer feedback and approve the proposed changes to the Council's Gambling Policy (Statement of Principles) which will form the Council's approach to gambling matters under the Gambling Act 2005 for the next three years, unless reviewed in the interim.
- Delegate any further revisions prior to presentation to Full Council in November 2009 to the Licensing Manager and Portfolio Holder.

8.0 Human Rights Implications

8.1 The provisions of the Human Rights Act, 1998, must be borne in mind by the Committee when taking licensing decisions under the Gambling Act, 2005. Particular regard should be had to Article 1 of the First Protocol, which relates to the protection of property and the peaceful enjoyment of possessions and property.

8.2 Article 8 - which relates to the right to respect for private and family life, home and correspondence - should also be borne in mind. While the Human Rights Act makes it unlawful for a local authority to act or to fail to act in a way that is incompatible with a Convention right, Article 1 of the First Protocol and Article 8 are both qualified rights which means that interference - to a justifiable extent - may be permitted as long as what is done:

- Has a basis in law;
- Is intended to pursue a legitimate purpose
- Is necessary and proportionate; and
- Is not discriminatory.

Kareen Plympton Licensing Manager

Background Papers

- Gambling Act 2005
- Gambling Commission Guidance to Local Authorities, (Various April 2006 – May 2009)
- Licensing, Compliance and Enforcement – May 2006
- Gambling Commission Codes of Practice
- LACORS – Gambling Policy Template v3 2009-
- LACORS – Guidance to Local Authorities