

Body: Licensing Act Committee

Date: 14th January 2013

Subject: Gambling Policy (Statement Of Principles) 2013-2016

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 sets out what the Authority proposes to apply in exercising functions under the Act.

Decision Type: Key Decision

Recommendation:

- (1) Note, endorse and approve the proposed changes to the Council's Gambling Policy (Statement of Principles) 2013 – 2016 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) Refer the matter to Cabinet and then Full Council for final approval and adoption in accordance with statute.

Contact: Kareen Plympton, Licensing Manager, Telephone 01323 415937 or internally on extension 5937
E-mail address kareen.plympton@eastbourne.gov.uk

1.0 Introduction and Background

- 1.1 The Gambling Act came into force on the 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

then be made to Eastbourne Borough Council, as the Licensing Authority, 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 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 it proposes to apply in exercising its functions under the Act. This version will be the third Statement prepared by the Authority and if approved, will be effective from February 20th 2013 - 2016.

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 has routinely revised with the latest version issued in September 2012. It 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.

3.0 Gambling Policy Statement and Consultation

3.1 The Gambling Policy (Statement of Principles) must be reviewed at least every three years, and the current policy comes to an end when the latest version is approved by Full Council.

3.2 In approving the new Gambling Policy (Statement of Principles) the legislation

requires that it is considered by the Full Licensing Committee, Cabinet and finally gains approval and sign off by Full Council.

3.3 The draft Gambling Policy (Statement Of Principles) consultation took place from 10th October 2012 to 24th December 2013.

3.4 The Gambling Act 2005 requires the Authority to consult with various groups before policy is determined. These include:

- The Chief Officer of Sussex Police covering the Eastbourne Borough;
- 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 interests of persons who are likely to be affected by the implementation of the Gambling Act 2005.

3.5 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
- Various internal departments

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

4.0 Consultation Feedback

4.1 At the time of writing this report, two responses have been received. One was from the Remote Gambling Association, who advised they have no comment to make, and the second was from Quality UK, who made observations about the marketing of gambling activities and the associated negative consequences.

These are included at Appendix 1.

5.0 Proposed amendments To Current Gambling Policy (Statement Of Principles)

5.1 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 2013 - 2016 is included at Appendix 2.

- 5.2 The terminology within the revised Policy Statement more clearly defines the role of the Council as the Licensing Authority.
- 5.3 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.
- 5.4 The Policy will ensure that concentration is focused on the potential impact of licensed premises on the town, with regard to the three licensing objectives set out in paragraph 1.6 of this report.
- 5.5 A brief summary of the key changes from the current statement follows. Save for legislative revisions, these are identified by italic typeface in the Policy document:
- Updated background and introductory information;
 - Change to how we handle personal details of interested parties (included post consultation as best practice);
 - New section on illegal gaming machines (included post consultation as the prevalence has increased).
- 5.6 Some of the wording in the Policy document has also been revised to improve understanding and accessibility. It 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.

6.0 Financial & Resource Implications

- 6.1 All fees are set locally, within a banding specified by Central Government, and the cost of administering the service is fully recovered by way of these fees.

7.0 Conclusion

- 7.1 The Council's present Gambling Policy reaches the end of its term on the 20th February 2013. A revised Policy is required and consultation has been undertaken with various parties to inform this. The revised draft Gambling Policy is attached at Appendix 2.

8.0 Human Rights

- 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 – 2012)
- Licensing, Compliance and Enforcement – May 2006-2012
- Gambling Commission Codes of Practice
- LACORS/Local Government and Gambling Commission – Gambling Policy Template 2012
- LACORS – Guidance to Local Authorities 2012

To inspect or obtain copies of background papers please refer to the contact officer listed above.