

Meeting: GENERAL PURPOSES

Agenda Item:

Date: 30 July 2009

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CONSULTATION: GAMBLING ACT 2005 - REVISED DRAFT STATEMENT OF PRINCIPLES

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1 PURPOSE

To seek approval of the revised draft of Stevenage Borough Council's Statement of Principles for the Gambling Act 2005 (Appendix 1), and to put this out for consultation.

2 RECOMMENDATIONS

That, subject to any amendments recommended by the Committee, officers conduct a public consultation exercise on the Gambling Act 2005 Statement of Principles with a view to reporting back to the Committee in November 2009.

3 BACKGROUND

The Gambling Act 2005 marked a significant change in the way that gambling (betting, gaming and lotteries) was regulated throughout the United Kingdom, replacing the Betting, Gaming and Lotteries Act 1963; the Gaming Act 1968; and the Lotteries and Amusements Act 1976.

The Gambling Commission is the main regulator for gambling within the UK, and its functions include the licensing of bingo operators, book makers, casino operators, pools operators, certain types of lotteries, gaming machine manufacturers and the operators of remote gambling. In addition, the Gambling Commission is responsible for all aspects of personal licensing.

Stevenage Borough Council is responsible for the following:

- Licensing of premises where gambling activities are to take place by issuing premises licenses;
- Issuing of provisional statements;
- Regulate members' clubs who wish to undertake certain gaming activities via

- issuing club gaming permits and/or club machine permits;
- Issuing of club machine permits to commercial clubs;
 - Granting of permits for the use of certain lower stake gaming machines at unlicensed family entertainment centers;
 - Receipting notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or less gaming machines;
 - Granting licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required;
 - Register small society lotteries below prescribed thresholds;
 - Issuing of prize gaming permits;
 - Receiving and endorse temporary use notices;
 - Receiving occasional use notices;
 - Provide information to the Gambling Commission regarding details of licenses issued (see section above on 'information exchange');
 - Maintain registers of the permits and licenses that are issued under these functions;
 - Exercise its powers of compliance and enforcement under the Act in partnership with the Gambling Commission and other responsible authorities.

The Council is required to review, prepare and consult upon its Statement of Principles, and if necessary, prepare revisions to this so as to enable it to exercise its functions under the Act every three years, or sooner if required.

The statement of principles must be published on the Licensing Authorities web-site, and also at one other location as prescribed in the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006.

The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 determines the form of the statement and details the areas that should be covered within the statement.

Furthermore, the following must also be set out in separate sections:

- (a) The principles to be applied by the authority in exercising the powers under s.157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm;
- (b) The principles to be applied by the authority in exercising the powers under s.158 of the Act to determine whether a person is an interested party in relation to a premises license, or an application for or in respect of a premises license;
- (c) The principles to be applied by the authority in exercising the functions under s.29 and s.30 of the Act with respect to exchange of information between it and the Gambling Commission, and the functions under s.350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 of the Act;
- (d) The principles to be applied by the authority in exercising the functions under part 15 of the Act with respect to the inspection of premises and the powers under s.346

of the Act to institute criminal proceedings in respect of the offences in that section.

4 DISCUSSION

4.1 The Gambling Act 2005 first came into effect on the 1 September 2007. The Gambling Act 2005 introduced a new system of regulation with the creation of a powerful new regulator in the form of the Gambling Commission to replace the former Gaming Board of Great Britain, and for many of the licensing functions exercised by magistrates' courts to be passed to local authorities.

4.2 Officers have reviewed the existing Statement of Principles in line with the revised Gambling Commission guidance, and notes supplied from LACORS, with notable changes reflected in the amended Statement of Principles as follows:

4.2.1 Enforcement

Paragraph 5 of The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 requires that licensing authorities statement of principles must contain the processes that they will apply in exercising their functions under Part 15 of the Act with regard to the inspection of licensed premises, as well as the powers specified under section 346 of the Act to initiate criminal proceedings in respect of offences specified therein.

This authority's approach to inspections will incorporate a risk-based inspection programme that is based upon:

- The licensing objectives
- The relevant codes of practice
- Guidance issued by the Gambling Commission, in particular part 36, and
- The principles set out throughout the authority's statement of principles.

The principles to be applied are noted within section 7 of the draft consultation document, attached as appendix 1 to this report, with full changes noted in the comparative table attached as appendix 2 to this report.

The full LACORS script with regards to enforcement can be found on pages 11-12 of the notes to accompany the statement of principles template for the Gambling Act 2005 that we have duly followed attached as appendix 3 to this report.

4.2.2 Splitting premises

Licensing authorities have to satisfy themselves that any application for a premises license relates to a single premise. S.353 of the Act defines premises as "any place".

The Gambling Commissions guidance for Local Authorities (3rd Editions, May 2009) has further assisted with defining this as follows;

- Permutations in which more than one premises license can exist for a single premise.
- The make-up for such premises to allow for this to be considered as "separate

premises”, with particular consideration being given to the following:

- The third licensing objective, to protect children from being harmed by gambling;
- Premises entrances should be separate and identifiable;
- Premises should be separate in that you should not be able to drift from one licensed area to another; and
- That patron's should be able to participate in the activity named on the licence.

In order that we as a licensing authority are able to determine if two or more proposed premises are truly separate, we will be mindful of the following:

- Is a separate registration for business rates in place for the premises?
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

The principles to be applied are noted within sections 3.2, 3.5 – 3.6.6 of the draft consultation document, attached as appendix 1 to this report, with full changes noted in the comparative table attached as appendix 2 to this report.

The full LACORS script with regards to enforcement can be found on pages 15-17 of the notes to accompany the statement of principles template for the Gambling Act 2005 that we have duly followed attached as appendix 3 to this report.

4.2.3 Premises being ready for gambling

Guidance has been issued by the Gambling Commission that a licence to use a premises for gambling should only be issued to a premises where the licensing authority is satisfied that the premises is going to be ready to be used for gambling in the foreseeable future.

If the premises are yet to be constructed, requires any alterations or the applicant does not have the right to occupy the premises, they would then be required to make an application for a provisional statement.

In circumstances where there is outstanding construction or alterations to be made, this authority will determine each application on its merits.

The principles to be applied are noted within part B, section 4 of the draft consultation document, attached as appendix 1 to this report, with full changes noted in the comparative table attached as appendix 2 to this report.

The full LACORS script with regards to enforcement can be found on pages 17-18 of the notes to accompany the statement of principles template for the Gambling Act 2005 that we have duly followed attached as appendix 3 to this report.

4.2.4 Temporary Use Notices

The Secretary of State has the power to determine what forms of gambling can be authorized by way of Temporary Use Notices. SI 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that:

“Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments”.

One of the areas that licensing authorities will need to give careful consideration to for Temporary Use Notices is what constitutes a ‘set of premises’ where Temporary Use Notices received relate to the same building, as defined within s.218 of the Gambling Act 2005, and 14.4 – 14.5 Guidance for Local Authorities by the Gambling Commission.

The principles to be applied are noted within part C, section 5 of the draft consultation document, attached as appendix 1 to this report, with full changes noted in the comparative table attached as appendix 2 to this report.

The full LACORS script with regards to enforcement can be found on pages 36-37 of the notes to accompany the statement of principles template for the Gambling Act 2005 that we have duly followed is attached as appendix 3 to this report.

- 4.3 A comparative table of all the proposed changes is attached as appendix 2 to this report. A full copy of the LACORS notes to accompany the statement of principles template (Gambling Act 2005) (May 2009) which we have duly followed is attached as appendix 3 to this report.
- 4.4 The scheme of delegations previously approved by Stevenage Borough Council is included in the attached draft Statement of Principles as appendix 5 therein.
- 4.5 Originally, the Council did not make an application to the Casino Advisory Panel for one of the new regional, or eight large and eight new small casinos. Under section 166 the Council was entitled to pass a resolution not to issue any casino premises licenses in the event that it subsequently obtains the power to do so.
- 4.6 The Council made the decision to have a ‘no-casino resolution’. This was with effect for three years during which period the Council may revoke this by further resolution, or a new resolution passed on expiry.
- 4.7 The Gambling Act requires that the following parties are consulted by Licensing Authorities:
 - One or more persons who appear to the authority represent the interests of persons carrying on gambling businesses in the authority’s area.
 - 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 Gambling Act 2005.

The full list of consultees is contained within the Statement of Principles attached as appendix 1 to this report as appendix 2 therein.

- 4.8 All of the consultees will be notified in writing of our consultation period. Copies of

the draft statement of principles will be made available to each of the consultees upon request, and will also be placed on the Stevenage Borough Council website. In line with recommendations from the Cabinet Office, the consultation period will run for twelve weeks. The licensing Authority must publish their Statement of Principles by 3rd January 2010.

5 IMPLICATIONS

5.1 Financial Implications

As most of the applications are dealt with administratively, there is not expected to be a large increase in workload.

5.2 Legal Implications

The Licensing Authority has a statutory duty to produce a Statement of Principles under the Gambling Act 2005. This must be published by 3rd January 2010.

5.3 Community Safety

The Act has a community safety implication arising from the licensing objectives. There are currently no local concerns about the impact of gambling on community safety.

BACKGROUND PAPERS

- Gambling Act 2005
- Gambling Act 2005 (Licensing Authorities Policy Statement) (England and Wales) Regulations 2006
- Guidance for Local Authorities, 3rd Edition (Gambling Commission - May 2009)
- LACORS template Statement of Principles (May 2009)

APPENDICES

- Appendix 1 - Stevenage Borough Council Draft Revised Statement of Principles
- Appendix 2 - Summary of changes
- Appendix 3 - LACORS notes to accompany the Statement of Principles template (Gambling Act 2005) (May 2009)