

**Meeting:** LICENSING COMMITTEE

Portfolio Area: ENVIRONMENT & E-GOVERNMENT

**Date:** Thursday 23<sup>rd</sup> November 2006 18:00hrs

**GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES**

(Environmental Health & Licensing)

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**1 PURPOSE**

To seek approval of Stevenage Borough Council's Statement of Principles for the Gambling Act 2005. (appendix 1)

**2 RECOMMENDATIONS**

That, subject to amendments by the Committee and no further consultation responses being received by 24<sup>th</sup> November 2006, the Stevenage Borough Council Gambling Act 2005 Statement of Principles (November) is approved. The document will then go to full Council for consideration in December 2006.

That following the consultation responses, Stevenage Borough Council does not make a 'no casino resolution' at this stage.

**3 BACKGROUND**

The Gambling Act 2005 will mark a significant change in the way that gambling (betting, gaming and lotteries) will be regulated throughout the United Kingdom. It replaces the Betting, Gaming and Lotteries Act 1963; the Gaming Act 1968; and the Lotteries and Amusements Act 1976. The Council exercises some duties under these Acts, and the Gambling Act will bring new responsibilities to the Council as the local licensing authority. The Council is required to prepare a statement of principles for the exercise of its' functions under the Act.

**4 DISCUSSION**

**4.1 General**

4.1.1 A new regime for gaming, betting and lotteries is due to be implemented from 1 September 2007. The Gambling Act 2005 introduces 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.

4.1.2 Under the Act, the Gambling Commission is responsible for issuing premises licenses and personal licenses. The Council in its' capacity as a licensing authority will:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing premises licenses;
- Issue provisional statements;
- Regulate members' clubs who wish to undertake certain gaming activities via issuing club gaming permits and/or club machine permits;
- Issue club machine permits to commercial clubs;
- Grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centers;
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or less gaming machines;
- Grant 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;
- Issue prize gaming permits;
- Receive and endorse temporary use notices;
- Receive 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;

4.1.3 In carrying out its' functions, the Council is under a statutory duty to aim to permit the use of premises for gambling as long as it is considered to be:

- In accordance with any relevant Codes of Practice issued by the Gambling Commission;
- In accordance with any Guidance issued by the Gambling Commission. The Commission has issued specific Guidance to licensing authorities as to the exercise of their functions;
- In accordance with its' Statement of Principles;
- Reasonably consistent with the licensing objectives.

4.1.4 The licensing objectives (which are different from those under the Licensing Act 2003) 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
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

4.1.5 The Act provides that the Committee established to administer the Licensing Act 2003 shall exercise the relevant responsibilities under the Gambling Act, with the exception of:

- The adoption of the licensing statement of principles; and
- Any resolution relating to casinos

The above are decisions for the Council as a whole.

It is therefore expected that the procedures for the Licensing Committee dealing with Gambling Act applications will be broadly similar to those for the Licensing Act. The terms of reference for the Licensing Committee may need amendment to ensure that the Gambling Act 2005 is covered.

A scheme of delegations is included in the attached Statement of Principles.

4.1.6 The Council has not made an application to the Casino Advisory Panel, which will be advising the Secretary of State on the location of the one new regional, and eight large and eight new small casinos. Under section 166 the Council is entitled to pass a resolution not to issue any casino premises licenses in the event that it subsequently obtains the power to do so.

4.1.7 If the Council decides to have a 'no-casino resolution', it has effect for three years during which period it may be revoked by further resolution or a new resolution passed on expiry. In passing a resolution the authority may have regard to any matter or principle.

4.1.8 The authority is under a duty to produce a statement of principles, which sets out its' approach to certain matters where it has some discretion, such as the setting of conditions, conducting licence reviews and the issuing of some permits. The mandatory elements of this statement were prescribed by regulations in January 2006. Their detail is included as appendix 2.

#### 4.1.9 Within the Draft Statement of Principles there are policies on:

Door Supervisors at casinos and Bingo Premises; The Gambling Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted though that the Security Industry Authority (SIA) cannot license the door supervisors at casinos or bingo premises.

Permits on unlicensed FECs; The Gambling Commission advises that licensing authorities may include a statement of principles in their three year licensing policy statement in respect of unlicensed FECs. Then those policies can be applied when considering applications for permits.

Prize Gaming Permits; The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.

## 4.2 Consultation Responses

### 4.2.1 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.

### 4.2.2 Copies of the draft statement of principles were sent to each of the consultees (142 in total), and placed on the Stevenage Borough Council website. In line with recommendations from the Cabinet Office, the consultation period runs for twelve weeks ending 24<sup>th</sup> November 2006. The Licensing Authority must publish their Statement of Principles by 3<sup>rd</sup> January 2007

### 4.2.3 When the draft statement of principles was sent out, a questionnaire accompanied it to encourage consultees to answer specific questions as well as making any other comments about the document. These questions were:

- (a) What measures do you think the Authority should take to protect children and vulnerable adults from being harmed or exploited by gambling?
- (b) Do you think there should be specific requirements for door supervisors in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive persons, etc? If so, what?
- (c) Are there any other appropriate measures or licence conditions that should be considered in adult gaming centres?
- (d) Are there any other appropriate measures or licence conditions that should be considered in licensed family entertainment centres?

- (e) Are there any other appropriate measures of licence conditions that should be considered on betting track premises?
- (f) Are there any other matters that should be considered in relation to the protection of children from harm when determining an application for an unlicensed family entertainments centre?
- (g) Are there any other matters we should take into account when considering the suitability of an applicant for a prize gaming permit?
- (h) Do you feel Stevenage Borough Council should have a 'no casino' resolution?

4.2.4 7 consultation responses have been received and are summarized in the following table. All responses were supportive of the Statement of Principles with no significant criticisms. 1 consultee replied that Stevenage Borough Council should have a 'no casino resolution'.

4.2.5 The Committee is advised that since the August draft of the Statement of Principles, LACORS and the Gambling Commission have provided further amendments to their guidance. These changes include clarification on the requirement for Door Supervision. The changes have been incorporated and highlighted in the November Draft Statement of Principles attached as appendix 1.

Organisation	General concerns	Protection of Children	Door Supervisors	Adult Gaming Centres	Licensed FECs	Track Betting premises	Protection of children unlicensed FECs	Prize Gaming permit holders	Should SBC have a 'no casino' resolution
Premises licence holder	No comments	SBC has done all it can	No comments	No comments	Consultee misunderstood what FECs are, making reference in his response to children not being permitted in bar areas	No comments	Consultee misunderstood what FECs are, making reference in his response to children not being permitted in bar areas	No comments	No
Premises Licence Holder	Policy appears to be in line with DCMS guidelines	No comments							
Premises Licence Holder	No comments	No comments	They should be licensed (SIA)	No comments	No comments	No comments	No comments	No comments	No
Premises Licence Holder	SBC should think of overall social impact of allowing more gambling as it may encourage younger people to think it is ok to game for profit.	SBC should provide education and publications	Should be SIA registered	Should be members hip only, max stake of £1, CCTV, ID checks, only open night time	No opening during term time, only open at weekends, bright lighting, CCTV, trained staff, air conditioning	Adults only, max £1 betting, £20 max prize, heavier tax on this type of premises, CCTV	Consultee misunderstood nature of these premises, believing unlicensed meant illegal	Should be British citizens, local people who live in Stevenage, No criminal offences	Yes

Organisation	General concerns	Protection of Children	Door Supervisors	Adult Gaming Centres	Licensed FECs	Track Betting premises	Protection of children unlicensed FECs	Prize Gaming permit holders	Should SBC have a 'no casino' resolution
	Crime associated with gambling will make Stevenage more deprived								
GamCare	Included a list of points they would like included either as Policy or licence conditions.	Not specifically commented on							No comments
Association of British Bookmakers	Included a letter with 4 suggested additions to Policy								No comments

Organisation	General concerns	Protection of Children	Door Supervisors	Adult Gaming Centres	Licensed FECs	Track Betting premises	Protection of children unlicensed FECs	Prize Gaming permit holders	Should SBC have a 'no casino' resolution
British Beer & Pub Association	General support of SBC Policy. Would like addition that additional machines should be permitted if the premises complies with the GC Code of Practice.	No specific comments							Not answered

### **GamCare**

Their comments are most appropriately dealt with by way of premises licence conditions. The comments included; having GamCare or other support leaflets available, ATMs or Cash machines to be separate from gambling areas, posters being displayed with the GamCare contact number/website.

**Association of British Bookmakers** asked the Statement of Principles to be amended to read:

In relation to door supervisors;

‘...there is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate’

in relation to betting machines (those machines in betting shops where a customer does not need to visit the counter to place a bet);



'While the authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. This authority will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter.'

A request was also made for the Policy to positively encourage, or at least give sympathetic consideration to re-sites within the same locality and extensions in order to enhance the quality of the facility provided for the benefit of the betting public.

On the issue of enforcement, they requested that 'the authority recognizes that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognized and resolved at the earliest stage, operators are requested to give the authority a single names point of contact, who should be a senior individual, and whom the authority will contact first should any compliance issues arise.'

**The British Beer and Pub Association** request that the policy is amended to state that where operators apply for additional machine permits and they are complying with the Gambling Code of Practice, there is no reason why these should not be granted.

They also requested inclusion in the policy of the procedure for permits for more than 2 machines.

They also requested further guidance for transitional arrangements, either within the policy or in separate guidance, recognising that this will not be possible until the regulations are finalised.

## **5 IMPLICATIONS**

### **5.1 Financial Implications**

As most of the applications will be dealt with administratively, there is not expected to be a large increase in workload. Applications will have to be accompanied with the statutory application fee in each case. The government will set a maximum band of fees to be charged, the details of which have yet to be published. A small and unidentified amount of money has been provided by the government in the revenue support grant for the implementation of and training for the Act.

### **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 3<sup>rd</sup> January 2007.

### **5.3 Community Safety Implications**

The Act has a community safety implication arising from the licensing objectives. There are currently no local concerns about the impact of gambling safety on community safety, and it does not appear within the Council's community safety plan.

## **BACKGROUND DOCUMENTS**

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

## **APPENDICES**

- Appendix 1 - Stevenage Borough Council Draft Statement of Principles
- Appendix 2 - The mandatory elements of a Statement of Principles
- Appendix 3 - Transitional Arrangements
- Appendix 4 - Timescale for implementation of the Gambling Act 2005