

GAMBLING ACT 2005 – STATEMENT OF LICENSING PRINCIPLES

1 SUMMARY

- 1.1 This report introduces the Gambling Act 2005 and outlines its major aspects and the matters that have particular implications for the Council.
- 1.2 The report explains in detail the arrangements for producing a Statement of Licensing Principles required by the Act and the timetable for the Acts implementation.
- 1.3 The report seeks a resolution to approve the draft Statement of Licensing Principles for consultative purposes.

2 INTRODUCTION

- 2.1 The Gambling Act 2005 received Royal Assent on 7 April 2005.
- 2.2 The provisions of the Act are similar in many respects to those of the Licensing Act 2003: -
 - (a) All regulation of gambling activity including gaming, on- and off-course betting, lotteries, bingo and gaming machines will be assimilated into one regime.
 - (b) There will be key licensing objectives aimed at preventing gambling from being a source of crime or disorder, ensuring gambling is conducted in a fair and open way and protecting children and other vulnerable persons from being harmed or exploited by gambling.
 - (c) District Councils will administer the regime as Licensing Authorities in respect of premises licences and other permissions and will have to publish a Statement of Licensing Principles in accordance with the Act and guidance issued by the Gambling Commission.
- 2.3 Implementation will follow similar lines to the Licensing Act 2003 with a transitional period providing 'grandfather' and 'continuation' rights, to facilitate conversion of licences and permits.
- 2.4 The key implementation dates are shown on the schedule at Appendix A.
- 2.5 A copy of the Act and the Gambling Commission's Guidance to Licensing Authorities have been deposited in the Member's Library at the Civic Suite in Rayleigh.

3 BACKGROUND

Gambling Commission

- 3.1 The Gambling Act 2005 created the Gambling Commission to succeed the Gaming Board of Great Britain as the main regulatory body for gambling of all types. It has overall responsibility for issuing operator's licences and personal licences, and for issuing guidance to Licensing Authorities.
- 3.1 An operator's licence will generally be required to operate, make or provide facilities for gambling, e.g. a company operating casinos, bingo, betting offices, adult gaming centres, family entertainment centres, manufacturing or supplying gaming machines or gambling software and lotteries.
- 3.2 A personal licence will generally be required by a person occupying a management or operational function in connection with the provision of facilities for gambling, e.g. the manager of premises.
- 3.3 The Guidance for Licensing Authorities is a binding document on Licensing Authorities in respect of the discharge of their responsibilities under the Act, including their preparation of licensing principles.

Licensing Authorities

- 3.4 Rochford District Council is the Licensing Authority for this district. The functions of the Licensing Authority are similar to those undertaken by the Licensing Authority created under the Licensing Act 2003, i.e. the Authority will be responsible for: -
- (a) producing licensing principles,
 - (b) issuing premises licences and permits, and
 - (c) publishing a licensing register.
- 3.5 The Gambling Act 2005 delegates all responsibilities of the Authority to the Licensing Committee, established under section 6 of the Licensing Act 2003, except: -
- (a) resolving whether or not to grant casino licences,
 - (b) setting of fees, and
 - (c) producing a statement of licensing principles.

Premises Licences and Permits

- 3.6 A premises licence will generally be required in respect of any premises where gambling facilities are provided or where gambling takes place.

- 3.7 There are five categories of licence – casino, bingo, betting, adult gaming centre and family entertainment centre.
- 3.8 There are special considerations in respect of casinos, which are explained at paragraph 4.
- 3.9 All premises licences will permit the use of gaming machines with the number and type of machine being governed by the type of licence. Licences for adult gaming and family entertainment centres, formerly known as amusement arcades, will only permit the use of gaming machines and no other form of gambling.
- 3.10 The Act also provides for the issue of permits, rather than licences, to authorise the use of low stake gaming machines on certain premises, e.g. public houses.
- 3.11 Under the new Act, taxi offices, fish and chip shops and take-away restaurants will be prohibited from obtaining permits for gaming machines, although those that have valid permits on 1 September 2007 will be allowed to continue using the machines until those permits expire.

Lotteries

- 3.12 Operators of lotteries will have to be licensed by the Gambling Commission unless the lottery is exempt.
- 3.13 An exempt lottery includes: -
- (a) incidental non-commercial lotteries, e.g. at bazaars, etc.,
 - (b) private lotteries, e.g. private society lottery, work lottery or residents lottery,
 - (c) customer lotteries, e.g. tickets sold only when a person is on the business premises,
 - (d) small society lotteries, e.g. a lottery with proceeds of less than £20,000 promoted wholly on behalf of a non-commercial society.
- 3.14 The promotion of a small society lottery has to be registered with the Licensing Authority.

4 CASINOS

- 4.1 The Act provides for three classes of casino – regional, large and small – of which there will be one, eight and eight respectively.
- 4.2 It was the Government's intention to permit greater numbers of casinos but lower numbers for the first three year period of the new regime were conceded in order to pass the Bill prior to the last General Election.

- 4.3 The Secretary of State (SoS) has retained the power to increase the numbers of casinos by future regulation. A report by the former Office of the Deputy Prime Minister has shown the potential for 40 regional and an unlimited number of smaller casinos being licensed.
- 4.4 Because of the current restricted numbers, 'consents' have had to be applied for by councils wishing to have a casino in their district. Members will be aware that the former Policy and Finance Committee resolved not to bid for a casino within this district at their meeting on 9 March 2006 (Minute No 93/06).
- 4.5 It should be noted that the resolution not to bid for a casino differs from a resolution not to permit a casino.
- 4.6 There is no requirement for a council to consider passing a resolution; the question may remain mute.
- 4.7 A resolution may be passed provided it: -
- (a) applies to the issue of casino premises licences generally,
 - (b) specifies the date on which it takes effect,
 - (c) may be revoked by a further resolution,
 - (d) lapses at the end of the three year period beginning with the date it takes effect (without prejudice to the ability to pass a new resolution), and
 - (e) is included in the Statement of Licensing Principles.

5 ASSESSMENT

Requirements in Rochford District

- 5.1 Premises currently holding a premises licence or club premises certificate under the Licensing Act 2003, of which there are 90, that also hold an authorisation for gaming machines, will require a Licensed Premises or Club Premises Gaming Machine Permit in order to continue operating gaming machines.
- 5.2 There are currently nine premises that will require a betting premises licence.
- 5.3 There is currently one premise holding a permit for gaming machines in an amusement arcade. This premise will require a licence or permit to operate as an Adult Gaming Centre or Family Entertainment Centre, depending upon the type of machines provided.
- 5.4 There are currently five premises that hold permits for low-stake gaming machines issued by this authority that will be prohibited under the new Act, e.g. taxi offices.

6 STATEMENT OF LICENSING PRINCIPLES

- 6.1 The Gambling Act 2005 requires each Licensing Authority to publish a Statement of Licensing Principles for each 3-year period commencing on 3 January 2007.
- 6.2 Unlike the process of drafting the policy for the 2003 Act, a framework was provided by Local Authority Co-ordinators of Regulatory Services (LACORS) to offer some national consistency to statements.
- 6.3 The drafting of a statement 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 was drafted, and is a derivative of the LACORS framework. There is reference in a number of places to various appendices, which have not yet been produced, and these are indicated in italics. Guidance from the Gambling Commission and secondary legislation is still awaited to enable these to be completed.
- 6.4 The draft statement has to be consulted upon for a 3-month period by a prescribed list of persons before being ratified by the Council in time for publication by 3 January 2007. The 'casino' options have been included in for consideration as part of that process.
- 6.5 It is suggested that the Licensing Committee should consider any responses and that the final draft of the statement should reflect the Committee's recommended option when Council considers it for ratification on 12 December 2006.
- 6.6 It is proposed that the timetable for publication of the statement by 3 January 2007 should be: -
- draft statement undergoes consultation between 3 July 2006 and 2 October 2006;
 - responses to consultation are collated and incorporated in a report to be considered by Licensing Committee at a date yet to be determined, during November 2006
 - Council considers final draft of the statement on 12 December 2006
- 6.7 The draft statement which is appended is written in the form in which it is intended to be published in January 2007.

7 IMPLICATIONS

Resources

- 7.1 As the functions and composition of the Licensing Committee established under the Licensing Act 2003 will be statutorily extended to meet those

required under the Gambling Act 2005, there are no additional resource implications anticipated in respect of Members.

- 7.2 There is sufficient resilience within the Licensing Unit to meet the anticipated workload arising from the additional functions and responsibilities under the new regime.
- 7.3 It is not anticipated that there will be a substantial demand to arrange hearings applications as: -
- (a) premises already holding a licence or permit will be protected in their conversion in the same way premises were safeguarded in the transitional period to the Licensing Act 2003, and
 - (b) applications for new licences or permits or to vary converted licences and permits are not expected to be either large in number or to attract a high level of opposition.

Training

- 7.4 Training will be needed to familiarise Members and Officers with the implications of the new legislation. This training will be incorporated into the Member's training and development programme.
- 7.5 Licensing officers will need in-depth training of all aspects of the new Act, which may only be available through external training courses and for which no cost estimates are currently available.

Financial

- 7.6 The only financial implications apparent at this time are for delivery of Member and Officer training, for which budgets will be determined through the normal budget process.

Reputation

- 7.7 There is a potential risk to the Council's reputation in being unprepared for implementation of the new Act, which can be minimised through training and instruction in the law.

8 RECOMMENDATION

- 8.1 It is proposed that the Committee **RESOLVES**
- (1) To approve the draft Statement of Licensing Policy for consultation between 3 July 2006 and 2 October 2006.
 - (2) To consider responses to consultation in October 2006.

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Background Papers: -

None

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APPENDIX A

KEY IMPLEMENTATION DATES

28 April 2006 -	Final date for applications for certificates of consent for new casinos under Gaming Act 1968.
30 May 2006	Draft Statement of Licensing Principles considered by Licensing Committee for 3 month consultation period commencing 3 July 2006
1 July 2006 -	Final date for applications for new permits or renewals for Amusement With Prizes Machines in non-licensed premises, e.g. taxi offices.
1 September 2006 -	Existing permissions for gaming & betting licences/permits that expire on/after this date will be renewed automatically by relevant issuing authorities, to remain valid until 31 August 2007
11 September 2006 -	Public consultation on draft statement finishes.
October 2006 -	Responses to consultation collated, report and recommendations prepared for Licensing Committee to consider amendments to policy.
October 2006 -	Licensing Committee considers responses to consultation process and approve / amend Statement of Licensing Principles and recommend Full Council's approval.
12 December 2006 -	Full Council approves Statement of Licensing Principles
15 December 2006 -	Council publishes Notice of Intention to publish its Statement of Licensing Principles.
19 December 2006 -	Statement of Licensing Principles published.
1 January 2007 -	Gambling Commission accepts applications for operator licences and personal licences.
31 January 2007 -	Licensing authorities accept applications for premises licences having published Statements of Licensing Principles at least 1 month before.
27 April 2007 -	Final date of application in order to qualify for Continuation Rights by existing & new operators with outstanding applications.
1 September 2007-	Implementation date of Gambling Act 2005. 'Grandfather rights' apply in respect of any licence or permit in force on 31 August 2007 or in respect of which there is an outstanding application.