

Meeting:	Licensing and General Purposes Committee
Date:	15 June 2006
Subject:	Outline Report on Gambling Act 2005
Responsible Officer:	Gareth Llywelyn-Roberts, Group Manager, Community Safety Services
Contact Officer:	P Sivashankar, Licensing Service Manager, ext 5605
Portfolio Holder:	Councillor Eileen Kinnear
Key Decision:	No
Status:	Public

Section 1: Summary

Decision Required

To approve the proposed timescales for Gambling Policy draft, consultation and publication.

Reason for report

To inform members of the procedure to be followed by the Council to implement the gambling Act 2005.

Benefits

To meet the Council's duties under the Gambling Act 2005, the Licensing Service is proposing these time scales so that local residents and businesses can take part in an informed consultation exercise.

Cost of Proposals

A growth bid was submitted to the last budget process to implement this additional function. However, the bid was unsuccessful, hence implementation will be undertaken within existing approved staff resources and budgets. This will have a significant additional strain on an already stretched Licensing Team, and members will be kept fully informed regarding any delays and/or service related issues. Whilst a during the ,it given the financial priorities of the Council.

Risks

Not publishing a Gambling Police by 31 December 2006 will be outside the Regulations and Guidance issued by the gambling Commission. Operators are expected to start applying to convert their existing permits and licences from February 2007. It would not be possible for this Authority to receive these applications without publishing the Policy by 31 December 2006.

Implications if recommendations rejected

Within the existing staffing compliments this Service will just meet these deadlines. There is also a recommendation by the Cabinet Office that all public consultations must be for a 12-week period.

Section 2: Report

2.1 Brief History

- 2.1.1 The Gambling Act 2005 creates a new system of licensing and regulation for commercial gambling in this country. Amongst other changes, it gives to local authorities new and extended responsibilities for licensing premises for gambling. In some cases (such as gaming machine arcades), those build on existing responsibilities. But in other major areas, including betting, casino gaming and bingo, they transfer to local authorities responsibilities, which previously lay with local licensing justices.
- 2.1.2 The new Act comes fully into force in September 2007. In preparation, each licensing authority is required to develop, consult on and publish a statement of its licensing policy. The statement must set out the principles, which the authority proposes to apply in exercising its licensing functions under the Act.
- 2.1.3 To help the process, the Act requires the Gambling Commission to issue guidance to licensing authorities on the manner in which they are to exercise their functions under the Act and the principles to be applied by them in exercising those functions. Licensing authorities are required to take account of all such guidance.

2.1.4 The Act contains three licensing objectives, which underpin the functions that the Commission and licensing authorities will perform. These objectives are central to the new regulatory regime created by the Act.

They are:

- preventing gambling from being a source of crime or disorder, being associated with crime or 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.

The Commission has an overriding obligation to pursue and have regard to the objectives, and to permit gambling so far as it thinks is reasonably consistent with them.

2.1.4 Licensing authorities will license gambling premises and issue a range of permits to authorise other gambling facilities in their licensing area. In exercising their functions generally under the Act, licensing authorities must have regard to the guidance issued by the Commission. Authorities will have similar regulatory powers to the Commission with respect to their licensees, including the power to impose conditions and to review licenses, however they will not be able to impose financial penalties.

2.1.5 Functions of licensing authorities

The Act gives licensing authorities a number of important regulatory functions in relation to gambling. Their main functions are to:

- license premises for gambling activities;
- consider notices given for the temporary use of premises for gambling;
- grant permits for gaming and gaming machines in clubs and miners' welfare institutes;
- regulate gaming and gaming machines in alcohol licensed premises;
- grant permits to family entertainment centres for the use of certain lower stake gaming machines;
- grant permits for prize gaming;
- consider occasional use notices for betting at tracks; and
- register small societies' lotteries.

2.1.6 Licensing authorities have an obligation to provide information to the Gambling Commission, including details of licenses, permits and registrations issued.

2.1.7 In addition, licensing authorities are required to prepare, every three years, a statement of the principles, which they propose to apply when exercising their functions, and they must publish the statement. The statement, which may also be referred to as a 'policy', can be reviewed and re-published during the three-year period in which it has effect. In preparing the statement, licensing authorities must follow the procedure set out in the Act, including whom they should consult.

2.1.8 The requirement on licensing authorities in relation to the principles that must be applied in exercising their functions in relation to part 8 of the act, including premises licensing, is more prescriptive. Section 153 of the Act provides that licensing authorities should aim to permit the use of premises for gambling in so far as they think it:

- (a) in accordance with any relevant code of practice under section 24;
- (b) in accordance with any relevant guidance issued by the Commission under section 25;
- (c) reasonably consistent with the licensing objectives; and
- (d) in accordance with the authority's statement of licensing policy.

2.1.9 Premises licenses

Premises licenses will be granted by licensing authorities and may authorize the provision of facilities on:

- casino premises;
- bingo premises;
- betting premises, including tracks;
- adult gaming centres; and
- family entertainment centres.

2.1.10 In addition to licenses, there are other forms of authorisation that a licensing authority may grant, for example, authorisations for the temporary use of premises, occasional use notices and five different sorts of permit for unlicensed family entertainment centres, prize gaming, gaming machines on alcohol-licensed premises and club gaming and club gaming machines, respectively.

2.2 Options considered – Policy consultation and Publication

2.2.1 There have been two options identified and considered. The attached timetable gives details of the two. The first time-line is to meet the pre-arranged Full Council on 19 October 2006. This would only give this Service less than a month to draft the initial document for internal consultation. Due to delays in publishing the template and guidance, it would not be possible to meet this time-line.

2.2.2 The second time-line is to report the statement of the principle to a proposed Full Council meeting to be arranged in December 2006. This proposal would give this Service a preparation time of at least 6 weeks and a full 12 week public consultation.

2.3 The Proposal

2.3.1 It is therefore proposed that:

- Officers to work to the second time-line and to plan a Full Council meeting in December 2006 to approve the Gambling Policy.

2.4 Consultation

2.4.1 Section 349 (3) requires the licensing authority to consult the following on the licensing policy statement or any subsequent revision:

- in England and Wales, the chief officer of police for the authority's area;
- in Scotland, the Chief Constable of the police force maintained for the police area comprising that area;
- one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
- 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 this Act.

The list of persons to be consulted when preparing the licensing policy statement is deliberately wide. This enables licensing authorities to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the licensing policy statement.

Licensing authorities will develop their own consultation practices but they may like to consider the following:

- consultation with a range of organisations including faith groups, voluntary and community organisations working with children and young people, organizations working with people who are problem gamblers, medical practices or primary care trusts, and advocacy organisations (such as the Citizen's Advice Bureau and trade unions);
- consultation with other tiers of local government (where they exist);
- consultation with businesses who are, or will be, holders of a premises licence;
- consultation with the organisations named as responsible authorities in the Act; and
- using a variety of consultation methods including meetings with gambling businesses in the local authority area and open forums for the public.

Any written consultation should follow best practice as set out by the Cabinet Office including allowing 12 weeks for responses to consultation. Consultation documents could be provided on the Council's website.

2.4 Financial Implications

2.4.1 As the fee levels are not yet published by the DCMS, it is not possible to forecast the final cost and financial implications with any great certainty at this moment.

2.4.2 It is anticipated that the costs of implementing Gambling Act 2005 will be met from the existing budget of the relevant Head of Service and this could have an effect on service delivery. However the situation will be monitored as part of the planning process and if significant costs are likely to be incurred the matter will be re-considered and brought to the attention of members.

2.5 Legal Implications

- 2.5.1 The Council is a statutory licensing authority for the purposes of the Gambling Act 2005 (“the Act”) and, in addition to complying with its statutory obligations, is obliged to have regard to guidance issued from time to time by the Gambling Commission.
- 2.5.2 The Gambling Commission has now published a revised version of its *Guidance to Licensing Authorities*.
- 2.5.3 Under the Act, licensing authorities are required to produce, at least every three years, a statement of the principles that they propose to apply when exercising their functions under the Act (“a statement”). A licensing authority may revise a statement at any time during which it has effect.
- 2.5.4 The Gambling Act 2005 (Licensing Authority Policy Statement)(England and Wales) Regulations 2006 (“the Regulations”) set out the requirements as to the form and publication of a statement or a revision of a statement.
- 2.5.5 The form of the statement is for the licensing authority to determine, subject to complying with the requirements that it include an introductory section summarising the matters contained in the statement, describing the geographical area in respect of which the authority exercises functions under the Act, and listing the persons consulted in preparing the statement.
- 2.5.6 The statement is also required to include four sections, which deal separately with:
- (a) the principles to be applied by the authority in exercising the powers under 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 the Act to determine whether a person is an interested party in relation to a premises licence, or an application for or in respect of a premises licence;
 - (c) the principles to be applied by the authority in exercising the functions under the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act;
 - (d) the principles to be applied by the authority in exercising the functions under the Act with respect to the inspection of premises; and the powers under the Act to institute criminal proceedings in respect of the offences specified therein.

2.5.7 The Regulations set out the requirements relating to the advertisement and publication of a statement. The statement must be published on the licensing authority's website, and in at least one of the places set out in the Regulations, for a period of at least 4 weeks before it comes into effect. The authority must advertise the publication of the statement in a notice published in accordance with the Regulations. The notice must give specified information about the statement or revision, including details about when the statement or revision will be published, when the statement or revision will come into effect, and where it can be viewed.

2.6 Equalities Impact

2.6.1 There is impact on small operators of late night refreshments, where AWP's will be removed under this legislation. This Section will provide adequate advance information to these operators regarding these changes.

2.7 Section 17 Crime and Disorder Act 1998 Considerations

2.7.1 Metropolitan Police is a statutory consultee for this legislation and Police will be consulted on the Policy at the earliest opportunity and before the full public consultation is taken.

	22-May	29-May	05-Jun	12-Jun	19-Jun	26-Jun	03-Jul	10-Jul	17-Jul	24-Jul	31-Jul	10-Aug	17-Aug	24-Aug	31-Aug	07-Sep	14-Sep	21-Sep	28-Sep	04-Oct	
CMT Report																					
Report to L&GP																					
Internal consultation																					
amendments																					
public consultation																					
Final amendments																					
Full Council																					
Prep Policy																					
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