

DECISION-MAKER:	LICENSING COMMITTEE		
SUBJECT:	GAMBLING ACT 2005 - LARGE CASINO COMPETITION – ADVISORY PANEL AND DRAFT APPLICATION PACK		
DATE OF DECISION:	28 FEBRUARY 2013		
REPORT OF:	HEAD OF LEGAL, HR & DEMOCATIC SERVICES		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Jamie Hollis	Tel: 023 8083 3468
	E-mail:	jamie.hollis@southampton.gov.uk	
Director	Name:	Director of Corporate Services	Tel: 023 8083 2371
	E-mail:	mark.heath@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY
None

BRIEF SUMMARY

The process to grant a large casino premises licence includes two key stages – the provisional grant of a licence or provisional statement, and the assessment of applications to determine which offers the greatest overall benefit to the City of Southampton.

The Council intends to commence stage one of the process in April 2013, and must also start preparations for stage two of the process which it is anticipated will begin in August 2013.

This report asks the Committee to approve the draft application pack for use in the large casino licensing process, the composition of the Advisory Panel, the terms of reference for the Licensing Committee and Advisory Panel, a storage protocol to be used at stage 2 of the process, and also to delegate authority to the Head of Legal, HR and Democratic Services to attend to matters associated with this licensing process.

RECOMMENDATIONS:

- (i) That the Committee approve the content of the Application Pack for use in the large casino licensing process, as well as the information Storage Protocol;
- (ii) That the Committee approve the overall composition of the Advisory Panel who will assess applications and report to the Committee in due course;

- (iii) That authority is delegated to the Head of Legal, HR and Democratic Services, after consultation with the Chair of the Licensing Committee, to:
 - a) make any amendments or take any further action necessary to finalise the Application Pack prior to implementation;
 - b) commission appropriate specialist advisors to comprise and maintain the membership of the Advisory Panel; and
 - c) publish any statutory and other notices required as part of the large casino licensing process.

REASONS FOR REPORT RECOMMENDATIONS

1. It is a statutory requirement that the Council produce an application pack for use in the large casino licensing process. The minimum information to be included in this pack is set out in regulations, with some additional information to be included as a result of established good practice.
2. Although not a statutory requirement, Members are strongly advised to draw on specialist advice and technical analysis from an advisory panel to assist in the evaluation of applications.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. To refrain from acquiring specialist advice and technical analysis from an advisory panel. This would not be a reflection of good practice, and would lead to delays and additional expense associated with commissioning individual specialist advice on an ad hoc basis.

DETAIL (Including consultation carried out)

4. The Gambling Act 2005 (the Act) significantly changed the legislation governing the licensing of casinos. The Act, associated regulations and a Code of Practice describe the process to be followed before a large casino licence can be issued. This process includes:
 - a) Updating the Statement of Licensing Principles to include a statement of principles the Council will apply when determining the casino applications (which Council did at its November meeting);
 - b) Development of an application pack which describes the process the Council proposes to follow and how the principles will be applied when determining the licence;
 - c) Advertisement of the 'competition' and commencement of a two stage application process:
 - o Stage 1 of the competition imposes a regulatory test whereby applications are tested for their compliance with the gambling licensing objectives, the Gambling Commission's codes of practice and guidance, and Southampton's Statement of Licensing Principles.

If there is more than one successful applicant at stage 1, then the competition at stage 2 is activated.

- At Stage 2, the large casino licence is to be awarded to the applicant whose proposal is considered likely to result in the greatest benefit to Southampton. This decision will be taken by the Licensing Committee.
5. Members are asked to note that should there only be one application at stage 1 of the process, stage 2 of the process may not be engaged, and the licence may be awarded to the sole applicant.

The Application Pack

6. The Council must produce a comprehensive application pack. There are a number of legal requirements as to the composition of the pack laid out in the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008. In addition, good practice from other councils has identified a number of extra documents that should form part of the pack. The draft application pack includes the following documents:
7. a) Procedure Note:
This sets out the procedure that the applicant and Licensing Authority will follow during the application process. This document is currently subject to a non-statutory consultation exercise with applicants and the public, and will be finalised at full Council in March.
- b) Stage 1 Application Documents:
- Stage 1 Premises Licence Fee Schedule (Appendix 1)
 - Stage 1 Licence Application Form (standard) (Appendix 2)
 - Stage 1 Licence Application Form (vessel) (Appendix 3)
 - Stage 1 Provisional Statement Application Form (Appendix 4)
 - Stage 1 List of Responsible Authorities (Appendix 5)
 - Stage 1 Licence Application Newspaper and Premises Notice (Appendix 6)
 - Stage 1 Provisional Statement Newspaper and Premises Notice (Appendix 7)
 - Stage 1 Licence Application, Notice of Application – Form A (Appendix 8)
 - Stage 1 Licence Application, Notice of Application – Form B (Appendix 9)
 - Stage 1 Provisional Statement, Notice of Application – Form A (Appendix 10)
 - Stage 1 Provisional Statement, Notice of Application – Form B (Appendix 11)

c) Stage 2 Application Documents:

- Stage 2 Application Form and Notes for Guidance (Appendix 12 + 13)
- Stage 2 Evaluation Framework and Scoring Matrix. This document is currently subject to a non-statutory consultation exercise with applicants and the public, and will be finalised at full Council in March.
- Draft Schedule 9 Agreement (Appendix 14). This is the draft agreement that any successful applicant will have to enter into with the Council to ensure delivery of those benefits specified in the Stage 2 Application. A condition may be attached to the Licence giving effect to the agreement.

d) Other Documents:

- Terms of Reference for the Licensing Committee and Advisory Panel (Appendix 15). The Terms of Reference sets out further procedural detail relating to the involvement of the Licensing Committee and the Advisory Panel in the large casino licensing process.
- List of Members of the Licensing Committee (Appendix 16)
- List of Members of the Advisory Panel (Appendix 17). At this stage this list contains the intended categories of specialist advisors that will constitute the Advisory Panel. This report seeks authority for the Head of Legal, HR and Democratic Services to commission appropriate specialists in each of these categories, after consultation with the Chairman of the Licensing Committee.
- Information Storage Protocol for use at stage 2 of the process (Appendix 18)

8. This report asks Members to consider the draft Application Pack documents set out above, and subject to any suggested amendments, approve the documents for use in the large casino licensing process.
9. Members are asked to note that the various application forms that are contained within the Application Pack are prescribed by statute and cannot be changed from their current drafting. The Terms of Reference at Appendix 15 is based on a draft prepared by counsel and used by other authorities undergoing this process.

The Advisory Panel

10. Assuming there is more than one application, once Stage 1 has completed, the appeal period is over and any appeals dispensed with, the process will move into Stage 2. All successful Stage 1 applicants will be advised of the start of Stage 2, and invited to submit their detailed applications.
11. The initial applications will be reviewed and confidential, detailed negotiations will begin with each applicant with a view to the application being refined, supplemented or altered so as to maximise the benefits in accordance with the Act and adopted evaluation criteria; It is recommended this is carried out

through an expert advisory panel.

12. The benefits of this approach are:
 - a) It will be easier to control timescales and to set realistic deadlines
 - b) Specialist officers from the council will be able to plan and dedicate time to the process
 - c) External advisors can be procured providing the best value for money for the council
 - d) Expertise in negotiations and conclusion of legal documents can be procured
 - e) The Council can better ensure it meets the requirements of confidentiality and document control

13. The Advisory Panel will provide detailed technical analysis especially in relation to areas relating to finance and credit assumptions, socio-economic impacts, health and potential addiction impacts, and the credibility/viability of any particular casino offer. A draft list of categories of expert is attached at Appendix 17 to this report. The list is a reflection of the various specialisms required to provide a complete and well-rounded evaluation of each application to the Licensing Committee.

The Advisory Panel will be used to evaluate the applications, oversee negotiations and provide the Licensing Committee with a detailed evaluation report on each application before they meet to determine the licence. The Advisory Panel will not select a preferred applicant, but merely make an analysis of each application. The Licensing Committee will then discuss the applications and the report from the Advisory Panel and select their preferred applicant. If further information is required, the Licensing Committee may request this from the Advisory Panel before making their determination.

14. The Advisory Panel must be completely independent of the decision making process, avoiding bias. It is proposed that wherever possible internal advisers will be used in order to provide value for money. However there are some areas where the specialism required is outside of the expertise of the Council and external specialists will be sourced. This report seeks approval for the Head of Legal, HR and Democratic Services, after consultation with the Chairman of the Licensing Committee, to commission appropriate specialist advisors to complete and maintain the membership of the Advisory Panel throughout the course of the licensing process.

15. Approval is also sought for the Head of Legal, HR and Democratic Services to place any required notices that may be necessary.

RESOURCE IMPLICATIONS

Capital/Revenue

16. The large casino provides the council with the opportunity to secure benefits

for the city. Although the development of the revised Policy and application pack, as well as the upcoming application process has had a cost associated with it, the project is being delivered within the ring fenced Gambling Act budget. In addition there will be an application fee of £10,000 per applicant and annual premises licence fees should a licence be granted.

Property/Other

- 17. None. Any potential landholding interests of the Council are to be considered separately from the strict regulatory process

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

- 18. Gambling Act 2005. Southampton is one of the 8 cities identified nationally by the Casino Advisory Panel to be given the authority to grant a large casino premises licence.
- 19. Applicants dissatisfied with the process have recourse by way of appeal to the Magistrates Court at the end of Stage 1 and Judicial Review of the decision made at the end of Stage 2.

Other Legal Implications:

- 20. The Gambling Act 2005 has three licensing objectives:
 - a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
 - b) ensuring that gambling is conducted in a fair and open way, and
 - c) protecting children and other vulnerable persons from being harmed or exploited by gambling.

The licensing authority, in exercising their functions under the Act, shall aim to permit the use of premises for gambling in so far as it thinks it is reasonably consistent with the licensing objectives. The council has produced a revised Policy with this in mind and has taken special consideration of the protection of children and vulnerable people.

POLICY FRAMEWORK IMPLICATIONS

- 21. The application pack is based upon the principles as described in the Gambling Act 2005 Statement of Licensing Policy. Applicants for the large casino are expected to read the Policy before making their application and the Council will refer to the Policy when making its decisions.

KEY DECISION? No

WARDS/COMMUNITIES AFFECTED:	none
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SUPPORTING DOCUMENTATION

Appendices

1.	Premises Licence Fee Schedule
2.	Stage 1 Licence Application Form (Standard)
3.	Stage 1 Licence Application Form (vessel)
4.	Stage 1 Provisional Statement Application Form
5.	Stage 1 List of Responsible Authorities
6.	Stage 1 Licence Application Newspaper and Premises Notice
7.	Stage 1 Provisional Statement Newspaper and Premises Notice
8.	Stage 1 Licence Application, Notice of Application – Form A
9.	Stage 1 Licence Application, Notice of Application – Form B
10.	Stage 1 Provisional Statement, Notice of Application – Form A
11.	Stage 1 Provisional Statement, Notice of Application – Form B
12.	Stage 2 Application Form and Notes for Guidance
13.	Stage 2 Guidance Notes for Application Form
14.	Draft Schedule 9 Agreement
15.	Terms of Reference for the Licensing Committee and Advisory Panel
16.	List of Members of the Licensing Committee
17.	List of Members of the Advisory Panel
18.	Information Storage Protocol

Documents In Members' Rooms

1.	None.
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Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	No
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Other Background Documents

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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