

	Item no: 5
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SUBJECT:	GAMBLING ACT 2005 – CONSIDERATION OF STATEMENT OF PRINCIPLES
DECISION-MAKER:	LICENSING COMMITTEE
DATE OF DECISION:	18 th OCTOBER 2006
REPORT VERSION No:	1

FORWARD PLAN No: N/A

KEY DECISION? NO

STATEMENT OF CONFIDENTIALITY: NONE

WARDS/COMMUNITIES AFFECTED: ALL WARDS

SUMMARY

Section 349 of the Gambling Act 2005 requires the City Council as licensing authority to prepare and publish a statement of principles that it proposes to apply in exercising its functions under the Act. Licensing authorities must publish their first statement no later than 3 January 2007 with it coming into effect on 31 January 2007. The draft Statement of Principles (SLP) is the subject of extensive consultation in accordance both with the requirements of the Act and the Council's own consultation standards. The final draft, which is the subject of consultation prior to consideration by full Council, is attached for Members' consideration at Appendix A. The draft SLP has been approved by Counsel and includes relevant minor amendments as a result. The Act and Regulations made thereunder are extensive and prescriptive in relation to the content and form of the Statement.

RECOMMENDATIONS:

- (i) To consider the City Council's draft Statement of Licensing Principles and provide any comment or observation by way of consultation response.

REASONS FOR REPORT RECOMMENDATIONS

1. As the quasi judicial body responsible for administering the implementation of the Act it is considered important that its views are considered on any draft policy within its area of responsibility

BACKGROUND

1. The Gambling Act 2005 received Royal Assent on 7 April 2005. This Act introduces a new regulatory system to govern the provision of gambling in Great Britain, other than the National Lottery and spread betting.
2. The Act has introduced a unified regulator for gambling, the Gambling Commission. The Act removes responsibility from the licensing justices (in relation to gaming and betting permissions), and instead provides that all powers previously exercised by the licensing justices shall be the shared responsibility of the Gambling Commission and local licensing authorities.
3. Section 349 of the Act requires each licensing authority to prepare and publish a statement of principles that they propose to apply in exercising their functions under the Act. Licensing authorities must publish their first statement no later than 3 January 2007 (i.e. no less than four weeks prior to its full implementation and adoption).
4. The main functions of licensing authorities under the Act are as follows: -
 - Licensing premises for gambling activities
 - Considering notices given for the temporary use of premises for gambling
 - Granting permits for gaming and gaming machines in clubs and miners' welfare institutes
 - Regulating gaming and gaming machines in alcohol licensed premises
 - Granting permits to family entertainment centres for the use of certain lower stake gaming machines
 - Granting permits for prize gaming
 - Considering occasional use notices for betting at tracks
 - Registering small societies' lotteries

5. The Act provides for 3 categories of licence:-
 - (1) Operating licences;
 - (2) Personal licences; and
 - (3) Premises Licences
6. The Gambling Commission will issue operating licences and personal licences, and licensing authorities will issue premises licences.
7. **Operating licences** will principally authorise the provision of facilities for gambling. There are 10 different kinds of operating licence, which will authorise the various forms of gambling facilities e.g. to operate a casino or to provide facilities for betting.
8. An operating licence can authorise the provision of facilities on premises (non remote provision) or by means of remote communication (remote provision). Before being able to provide facilities on any particular premises, the holder of an operating licence will also need to obtain authorisation to use those premises for gambling. This authorisation will principally be a premises licence.
9. **Personal licences** will authorise the holder to perform a specified management office (e.g. Director) or specified operational function (e.g. any function which enables the person exercising it to influence the outcome of gambling), in connection with either the provision of facilities for gambling or a person who provides such facilities.
10. **Premises licences** will authorise the provision of facilities on casino premises, bingo premises, betting premises (including tracks and premises used by betting intermediaries), adult gaming centres and family entertainment centres.
11. Section 154 of the Act provides that all decisions relating to premises licenses are delegated to the Licensing Committee of the authority that has been established under the Licensing Act 2003, except:
 - a resolution not to issue casino licences (decision must be made by full Council)
 - functions in relation to the three-year Statement of Licensing Policy (decision, as in this case, must be made by full Council)
 - setting fees (unless specific delegation is provided for to the Licensing Committee)
12. An application for a premises licence may be made only by the holder of an operating licence that authorises him to carry on the activity in question (or a person who has made an application for an operating licence that has not yet been determined). Responsible authorities (e.g. Police, the Gambling Commission) and interested parties (e.g. local residents) may make representations in writing to a licensing authority about a particular application.

13. In addition to licences, there are other forms of authorisation that a licensing authority may grant e.g. authorisations for the temporary use of premises, occasional use notices and five different sorts of permits for unlicensed family entertainment centres, prize gaming, gaming machines on alcohol licensed premises, club gaming and club gaming machines.
14. Licensing authorities will be required to carry out most of their functions with a view to promoting the 3 licensing objectives-
15.
 - (1) preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime;
 - (2) ensuring that gambling is conducted in a fair and open way; and
 - (3) protecting children and other vulnerable persons from being harmed or exploited by gambling.
16. In addition to promoting the licensing objectives, the licensing authority must have regard to its SLP and to any guidance issued by the Secretary of State.
17. In April 2006 the Gambling Commission issued guidance to licensing authorities on the manner in which they are to exercise their functions under the Act, and in particular, the principles they should apply in exercising their functions. The vast majority of the SLP is prescriptive or flows from statutory guidance which is expected to be included in the document unless there is very good reason not to do so. The Council has also had the benefit of Counsel's opinion on the draft SLP in order to ensure it meets all statutory requirements.

18. **Casinos**

The Act makes significant changes to the licensing regime for casinos.

Under the previous legislative regime for gambling, casinos could only be located in one of the 'permitted areas' set out in statute. Applicants would have to demonstrate that there was unmet demand in the area for which they sought approval. Under the new Act applications can be made for a casino unless the Authority has issued a resolution that it will not issue such casino licences. Further, the consideration of unmet demand has been removed from the process.

19. Casinos are divided into 3 categories, determined by size –Regional, Large and Small.
20. Initially, the Government has decided to limit the number of new casinos to 17 (1 regional, 8 large and 8 small), in order to assess their impact upon problem gambling. The Casino Advisory Panel has been appointed to recommend the areas for these casinos, and is expected to report to the Secretary of State by the end of this year. In performance of this function, the Casino Advisory Panel invited all authorities wishing to licence one of the initial 17 new casinos to make a submission to them no later than 31 March 2006. The City Council submitted an application for a regional casino licence, with a large as a fall back option. The City was not shortlisted for the regional licence but has been for a large. Its

application is currently being scrutinised by the CAP.

21. The Government has indicated that they will review the position in relation to the number of casinos no earlier than 3 years after the award of the first casino premises licence, which provisionally puts the review date around 2010/11.
22. The Gambling Commission will be asked to report to the Government at that time as to whether the introduction of the new casinos has led to any increase in problem gambling or is increasing that risk. They may then decide to increase the number of licensed casinos through an order of Parliament.
23. It is anticipated that the overall practical effects of the implementation of the legislation are likely to be minimal in real terms. The only significant change that may occur is, as described, an application for a large casino, should the Council be successful in its bid. Any such application would, however, be the subject of extensive consultation and a separate statutory procedure in its own right.

24. Timetable For Implementation

The current projected timetable for implementation of the Gambling Act 2005 is as follows:

- 3 January 2007 –deadline for publication of statement of licensing principles
- 31 January 2007 –statement becomes effective
- 30 April 2007 - start of transitional period
- 1 September 2007 - Act goes live –new licences come into effect

CONSULTATION

The City Council is undertaking extensive consultation in accordance with the Act and Regulations as well as the Council's own consultation requirements. A full list of consultees is attached at Appendix B. The current draft SLP is also currently available via the Council's website. On publication a Notice must be placed in the local press stating the implementation date and providing the link to the website containing the final approved version. It will also be made available for inspection at designated Council buildings as well as at specified public libraries.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

Not applicable.

DETAIL

The Licensing Committee is invited to provide a consultation response to be considered by full Council when determining the SLP.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

None

Revenue

All matters in relation to the implementation of the Act are budgeted for. Fees remain to be determined but it is trusted will cover both set up and ongoing administration costs.

Property

None

Other

None

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

S.349 Gambling Act 2005

Other Legal Implications:

The Statement of Licensing Principles sets out the factors which the Licensing Authority shall take into account, along with relevant statutory guidance, the Gambling Act 2005 and Regulations made thereunder when performing its Licensing functions. It is important to note and reiterate that the Licensing Authority is unable to consider issues relating to morality or demand when determining premises licence applications.

POLICY FRAMEWORK IMPLICATIONS

The SLP itself will be a policy framework document

SUPPORTING DOCUMENTATION

Appendices

1.	Appendix A, Southampton City Council’s Draft Statement of Licensing Principles
2.	Appendix B, List of agencies, bodies and individuals consulted

Documents In Members’ Rooms

1.	None
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2.	
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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)

1.		
2.		

Background documents available for inspection at: Office of the Solicitor to the Council, Civic Centre, Southampton

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