

THE GAMBLING ACT 2005

EXECUTIVE MEMBER: Councillor A Holliday
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Summary: This report informs Members about the Gambling Act 2005, the Council's draft Licensing Policy containing the required statement of principles under Section 349 of the Gambling Act and makes a recommendation to Council in respect of approval of the draft Licensing Policy.

Recommendation:	That a recommendation be made to Council that the draft Licensing Policy as annexed and made under Section 349 of the Gambling Act 2005 (and being a statement of principles that the Council as licensing authority proposes to apply in exercising their functions under the said Act) be approved.
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Impact of Delivering Corporate Objectives: Supports the crime and disorder prevention objectives.

Financial and Human Resource Implications: Of this report, none. (The delivery of the new function will be met from within the existing Legal Services recharge. A budget bid is pending in respect of extended software.)

Impact on other statutory objectives (e.g. Crime and Disorder, LA21): The Gambling Act 2005 is directly linked to crime and disorder and the Council, in carrying out its functions under the Act, must do so with a view to preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime.

Project and Risk Management: Not applicable.

Key Decision Status

- **Financial:** None.
- **Ward:** None.

Other Ward Implications: None.

1. INTRODUCTION

1.1 The Gambling Act 2005 ("the Act") received the Royal Assent on 7th April, 2005. It repeals the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976 and the target for full implementation of the Act is 1st September, 2007 with the Council starting to receive applications for licences and permits from April 2007.

1.2 The Act has three clear licensing objectives:

- 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.

These objectives are not the same as those in the Licensing Act 2003 and in particular they do not include considerations in relation to public safety or the prevention of public nuisance.

1.3 Responsibility for the administration for the regime is shared between local authorities who are the licensing authorities and the Gambling Commission which takes over from the old Gaming Board and which will regulate all commercial gambling in Great Britain except for spread betting and the National Lottery.

1.4 The Council as a licensing authority shares responsibility with the Gambling Commission for the administration of the Act. In particular the Gambling Commission will be responsible for the issue of operators and personal licences and the licensing authority will be responsible for licensing gambling premises and the issue 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 Gambling Commission. Licensing authorities will have similar regulatory powers to those of the Gambling Commission with respect to their licensees, including the power to impose conditions and to review licences. However they will not be able to impose financial penalties. Licensing authorities will be responsible for the issuing of the following premises licences:

- Casinos;
- Betting Offices and Race Tracks;
- Bingo Clubs;
- Adult Gaming Centres; and
- Family Entertainment Centres.

In addition licensing authorities will also be responsible for issuing the following permits:

- Gaming Machines in alcohol licensed premises such as pubs;
- Gaming Machines for members clubs;
- Gaming in members clubs;
- Unlicensed family entertainment centres;
- Prize gaming;
- Occasional and Temporary Use Notices;
- Provisional Statements; and

- Registration of small scale lotteries.

2. STATEMENT OF LICENSING POLICY

- 2.1 By section 349 of the Act, the Council must in respect of each three year period prepare and publish a licensing policy which is a statement of principles that it proposes to apply in exercising its functions under the Act ("the Policy"). Before determining the Policy various people must be consulted. The Guidance issued by the Gambling Commission and separate Regulations specifying what the Policy should contain. A copy of the Council's draft Policy is attached as an appendix to this report.
- 2.2 The Policy as drafted and issued for consultation was prepared by the Cumbria Licensing Forum and has been issued by all six district councils in Cumbria as it is considered that a unified approach will allow some consistency to be achieved within the County, make the consultation process easier and allow problems to be shared.
- 2.3 Various people were consulted and these are listed in the section 3 of the draft Policy. The consultation period closed on 29th September 2006 and the Council received 3 representations to the draft Policy, none of which expressed any criticism or amendments.
- 2.4 All responses received were considered by the Cumbria Licensing Forum and amendments to the draft Policy were made and reported to the Licensing Committee on 6th October 2006.
- 2.5 The Licensing Committee endorsed the draft Policy as amended and made a recommendation to the Executive and Council that
- (i) The draft Statement of Licensing Policy be approved;
 - (ii) That the proposed scheme of delegation for decision making be as set out in Appendix 2 to the Policy be approved; and
 - (iii) That the setting of fees be delegated to the Licensing Committee.
- 2.6 The Policy must by law be adopted by the 2nd January 2007 and then published. It is therefore essential that it is approved by Council on the 12th December 2006.

3. SCHEME OF DELEGATION

- 3.1 Section 154 of the Act provides that all decisions relating to premises licences are delegated to the Licensing Committee of the Authority except for a resolution not to issue casino licences and approval of the Policy which must be taken by the whole Authority. The Licensing Committee can delegate its functions to Licensing Sub-Committees.
- 3.2 The Commission's Guidance sets out a suggested scheme of delegation and this was included in its original forms when the draft policy was issued for consultation. It has since been amended in two respects: -
- (a) In respect of fee setting licensing authorities will be able to select precise fees from within bands limited to cost recovery. The Licensing Committee indicated that it would like an input into such fee setting and recommended that they deal with this matter. This seems sensible as that Committee is responsible for the discharge by the Council of all licensing functions, other than the two issues referred to in 3.1 above. The level of fee bands are not yet known.

- (b) In respect of reviews the Guidance specifically left it open for licensing authorities to decide how it should deal with reviews initiated by itself. This is new as the Licensing Act 2003 does not allow the licensing authority to trigger a review. It is recommended that decisions to review a class of premises licence is taken by the whole Committee given the importance of the issue and that reviews of specific premises are left to a sub-committee.

The scheme of delegation at Appendix 2 to the Policy includes these amendments.

4. RECOMMENDATION

- 4.1 That the Executive recommends to Council that the draft Policy as annexed be approved.

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List of Appendices

Appendix – Proposed Licensing Policy.

List of Background Documents: Gambling Commission Guidance.
Responses to consultation.

2.