

Report of the Director of Neighbourhood Services

Gambling Act 2005 – Statement of Licensing Policy

Summary

1. This report advises Members of the consultation exercise carried out in respect of the draft licensing policy as agreed by the Licensing Act 2003 Committee on 7th July 2006. It seeks Members' approval of a revised policy and a recommendation for it to be approved by Council on 30th November 2006. It also seeks Members' direction as to the method of publication of the policy.

Background

2. The Gambling Act 2005 received Royal Assent on 7th April 2005 and will come into full effect from September 2007. In order to implement the legislation the council, as licensing authority, must consult on and publish its statement of licensing policy. This policy should be reviewed from time to time and in any event after 3 years. The policy must be approved by full council.
3. Members will recall that legislation did not allow licensing authorities much discretion in the content of their policies and the July 2006 report highlighted 5 particular areas where local considerations could be made. These will be addressed in the analysis section of this report.
4. Attached to this report at annex 1 is a revised draft of the Gambling Act Policy which has been produced following the consultation and from an exercise conducted by officers to present the policy in a more logical and readable form. Minor clarification issues resulting from the consultation exercise have already been incorporated but member decisions will need to be added. Proof reading will be undertaken when all revisions have been made prior to final publication of the Policy .
5. Members should also note that, as was the case with the introduction of the Licensing Act 2003, we still do not have all the guidance and regulations necessary to operate this legislation.
6. There are requirements as to the publication of the policy. The policy must be published before 3rd January 2007 i.e. 4 weeks before the date it comes into effect which is 31st January 2007.

7. Notice of the publication must be made on the council website and in one or more of the following places: a local newspaper, local newsletters, public notice board near main office of the council or public notice boards of libraries in the area.
8. The policy itself must be published on the council website and be available for inspection at one or more public libraries and other premises ie. council offices.

Consultation

9. At its meeting on 7th July 2006 the Licensing Act 2003 Committee approved a draft policy on which to consult and also approved a list of consultees. The consultation process was subsequently conducted over a period of 12 weeks and ended on 6th October 2006.

As a result of the consultation process 38 responses were received and these are summarised in a table at Annex 2 to this report.

Options

10. Members have the following options:
 - a. To make amendments to the draft policy as recommended.
 - b. To make any other amendments they see necessary.
 - c. To determine a policy for the publication of the policy.

Analysis

11. Members attention is particularly drawn to the following issues where decisions are required to be inserted into the draft policy.
 - a) Casinos – the Licensing Authority may resolve a ‘no casino’ resolution, which will prevent casino operators applying for a casino in the city, should there be a relaxation in the current limitation on the number of casinos nationally. Such a resolution lasts for 3 years and maybe revoked by further resolution. (Draft Policy paragraphs 22.1 and 22.2)

Comment: members will note that there is a mixed view of respondents to the consultation. Of those who commented 11 were in favour of York having a licensed casino and 19 against.

Unless the government amend legislation to allow more casinos to be developed no applications will be possible in York. The adoption or otherwise of a ‘no casino policy’ would however set a marker for the future should legislation change. In any event the councils policy may be changed at any time subject to the proper procedure being followed.

- b) Permits for unlicensed Family Entertainment Centres – these are premises where only low category D gaming machines are in use. There is no restriction on entry or use of machines by children. No operator’s licence is required. A permit is issued by the licensing authority. A licensing authority may include in their policy a statement of principles they intend to apply when considering applications for these permits. The draft policy paragraph 29.5 sets out a statement as suggested by the Gambling Commission but authorities are able to determine their own principles or indeed not adopt any.

Comment: There are no special circumstances in York that would seem to require any different policy to that suggested by the Gambling Commission

- c) Permits for prize gaming – gaming where the size of the prize is not determined by the number of persons playing. Children or young persons may participate in equal chance prize gaming ie bingo and may be attracted to premises offering this facility. A licensing authority may include in their policy a statement of principles they intend to apply when considering applications for these permits. The draft policy paragraph 31.2 sets out options in relation to the authorities principles.

Comment: There are no special circumstances in York that would seem to require any different policy to that suggested by the Gambling Commission

- d) Interested parties-the draft policy paragraphs 10.1–10.6 sets out officers views as to who should be considered as an interested party in general terms giving maximum discretion to the licensing authority. There is scope however for the authority to be more prescriptive.

Comment: Consultees were generally in favour of this approach. The Clementhorpe Community Association did however suggest that community and social groups be included. This is not possible as they are outside the statutory definition of interested party.

- e) Location - the draft policy paragraph 14.4 sets out officers views as to how the licensing authority will consider location of applicants premises in relation to meeting the licensing objectives. The parameters are set give the authority maximum discretion but there is scope to be more prescriptive.

Comment: No specific comments were received in the consultation

- f) Publication of policy - See paragraphs 7 and 8 of this report

Comment : There are no publication dates for “Your City” that will fit into the required time frame. In order to provide a readily evidenced proof that the policy was properly made then it is proposed that notice of its publication be made in the York Press. It is further suggested that notice be placed on the Guildhall notice board and that the policy will be available for inspection by

the public at the Guildhall and 9 St Leonards Place reception and at public libraries.

Corporate Priorities

12. The Gambling Act has 3 objectives:
- a. preventing gambling from being a source of crime and disorder, being associated with crime and 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.

These contribute to the Council's priority of reducing the actual and perceived impact of violent, aggressive, and nuisance behaviour on people in York.

Such behaviour can be associated with poorly regulated gambling activities.

13. Implications

- **Financial** - N/A
- **Human Resources (HR)** – N/A
- **Equalities** – N/A
- **Legal** – The Gambling Act requires a licensing policy statement to be prepared, consulted on and published by the licensing authority before January 7th 2007. This statement is required to set out the principles which the licensing authority propose to apply in exercising its functions under the Act
- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

Risk Management

14. In compliance with the Council's risk management strategy any decision made which is unreasonable or unlawful could be open to legal challenge resulting in

loss of image reputation and potential financial penalty. The Council must adopt a Licensing Policy for application of the Act which is lawful and upon which licensing decisions can be based.

Measured in terms of impact and likelihood, the risk score has been assessed at less than 16. This means that at this point the risks need only to be monitored, as they do not provide a real threat to the objectives of this report.

Recommendations

15. Members of the Executive are requested to consider revisions made to the draft licensing policy by the Licensing Act 2003 Committee, support the policy and endorse it for approval by full council on 30th November 2006.

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Report Approved **Date** 17/10/2006

Wards Affected: *List wards or tick box to indicate all*

All **yes**

For further information please contact the author of the report

Background Papers:

Gambling Act 2005
Gambling Commission Guidance to Local Authorities
Report to Licensing Act 2003 Committee 7th July 2006

Annexes

- Annex 1 Draft statement of policy (Gambling Act 2005)
- Annex 2 Summary of responses to consultation exercise