

Licensing and Safety Committee – 19th October 2006

Report of the Director of Law and Property

Gambling Policy - Outcome of Consultation Exercise

Purpose of Report

1. For the Committee to consider the responses to the consultation on the Council's draft Gambling Policy and to recommend approval of the Policy to Cabinet and full Council.

Background

2. The Gambling Act 2005 requires the Council to prepare and publish a statement of its Gambling Policy every three years.
3. The draft Policy went out for consultation on the 4th July, 2006 and was endorsed by the Licensing and Safety Committee on 21st August, 2006. A copy of the Draft Gambling Policy together with a list of the consultees is attached to this report as Appendix 1.
4. It is planned that Cabinet will give consideration to approval of the Policy on 1st November, 2006, full Council on the 4th December, 2006, followed by publication on the 3rd January, 2007.
5. The Responses to the consultation of the Council's Gambling Policy are contained in paragraphs 6 to 17 of this report.
6. A report on the Draft Policy was taken to each Area Committee of the Council and the following comments were made:-
 - the timetable for implementation of the legislation will place a significant burden on the Council as was the case in relation to the implementation of the Liquor Licensing legislation.
 - concern was expressed as to the Council's ability to enforce the legislation.
 - further concern was expressed as to the Council's ability to help young and vulnerable people with gambling problems.

- in relation to small lotteries, Church Halls and similar organisations could be prejudiced in terms of fees.
 - To add the following wording to Page 4 paragraph 3. When making decisions in this regard the Council will give due weight to any comments made by the police “and or by the local residents or traders”.
7. The British Casino Association have indicated that they would like to comment on the Councils’ Gambling Policy but at the time of writing this report no comments have been received.
8. The British Beer and Pub Association (BBPA) represents brewing companies and their pub interests, and pub owning companies, accounting for 98% of beer production and around two thirds of the 60,000 pubs in the UK. Many of its members own and run pubs in the Dudley area .The Association promotes the responsible sale of alcohol and management of licensed premises.

The BBPA response is supported by BII the professional body for the licensed retail sector, the Association of Licensed Multiple Retailers (ALMR), which represents the interests of smaller independent companies within licensed retailing and the Federation of Licensed Victuallers Association (FLVA) which represents self employed licensees in England.

The BBPA have commented as follows: -

- The draft Gambling Policy could also include the text on alcohol-licensed premises contained in the Lacors template. A copy is attached to this report as Appendix 2.
 - Applications for Gaming Machines, which comply, with the Gambling Code of Practice should be granted.
 - A suggestion that the Policy contains an outline of procedure for applying for more than 2 machines
 - The BBPA have indicated that some councils have taken the view that they will grant 4 machines before requiring a hearing. The BBPA support this view.
 - The BBPA supports the adoption of the LACORS standard form of application once produced.
 - A request that there is reference to the transitional arrangements in the Policy or for separate guidance in relation to existing machine permissions.
9. The Directorate of Adult, Community and Housing Services supports the principle of protecting vulnerable people from gambling.
10. The West Midlands Fire Service have made the following comments: -

- The Fire Service will use existing powers under the Fire Precautions (Workplace) Regs 1997 in considering applications under the Gambling Act 2005.
 - The Fire Service have asked whether they will be consulted on all applications.
 - The Fire Service have expressed concern that the Council will not be able to take into account representations that relate to their own legislation e.g. the premises are likely to be a fire risk.
 - The Fire Service has requested clarification as to what if any joint enforcement activity will be undertaken.
11. Blue Chip Casinos P.L.C. have commented that the Gambling Policy is an accurate representation of the new legislation.
 12. The Dudley Safeguarding Children's Board is a Responsible Authority within the meaning of the legislation and as such will be notified of all applications for Premises Licences. Further discussion will have to take place in terms of their input into the process.
 13. The Association of British Bookmakers (ABB) requests that the following paragraph be considered to be added to the Policy in relation to Door Supervision: -

"There is no evidence that the operation of betting offices has required door supervisors in order to ensure the protection of the public. The authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate."

This would appear to be consistent with the Gambling Commission Guidance and the current position that Door-Supervisor are not employed in betting offices.

The ABB also request that consideration be given to the following paragraph in respect of betting machines: -

"While the Authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. This Authority will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this Authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter.'

Betting machines are the machines on the shop floor of the betting office through which a customer may place a bet without having to visit the counter. Furthermore they are machines on which one may place a bet in an adult only environment, not machines upon which rapid gambling may occur.

The ABB have also requested that the Gambling Policy positively encourages the re-siting of betting offices within the same locality in order to enhance the quality of the facility.

The ABB also ask that consideration be given to the inclusion in the Gambling Policy of the following paragraph to assist with enforcement issues: -

“The Authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who would be a senior individual, and whom the Authority will contact first should any compliance queries or issues arise.’

Finally The Association has commented that betting offices do not permit under 18's into premises and operate extremely effective self-exclusion policies in respect of vulnerable people, and request that the Gambling Policy reflects this.

14. The Right Reverend David Walker, Bishop of Dudley, has responded to the consultation process and his comments are attached as Appendix 3.
15. A response has been received from the charity Aquarius, 2nd Floor, 16 Kent Street, Birmingham. Aquarius exists to help all people with problems arising from alcohol or other drug misuse, to reduce the harm and prevent such problems arising. In addition Aquarius provides treatment services to gamblers who are often experiencing severe financial difficulties and they have requested that the Gambling Policy makes specific reference to the need for such provision.
16. As part of the consultation process a meeting has taken place with Superintendent Dyer and Johnson, the licensing police constables and the Assistant Director of Legal and Democratic Services.

The focus of the meeting centred on enforcement issues in view of the fact that joint enforcement and close liaison arrangements are now established in respect of the liquor licensing legislation it is anticipated that the same approach will be adopted in relation to the Gambling Act.

The Police representatives made specific comments in respect of the draft policy as follows: -

Paragraph 3, Page 3 “Preventing Gambling from being a source of Crime and Disorder”.

It is suggested that the reference “to organised crime” be amended to “high frequency levels of crime and organised crime”.

Page 4 “Ensuring Gambling is conducted in a fair and open way”

The Assistant Director of Legal and Democratic Services informed the Police that this paragraph had to be read in conjunction with the Council's duty to promote the Licensing Objectives, in particular the prevention of gambling from being a source of crime and disorder.

A further meeting between the police and licensing enforcement officers will take place when the detailed Regulations and Guidance has been issued.

The Police will also be invited to comment on the information contained within this report.

17. At the time of writing this report we are awaiting a response from the Youth Council.

Finance

18. The costs of publication of the Gambling Policy will be met out of the Licensing budget.

Law

19. The Gambling Act 2005 section 349 (1)(a) and (b) requires all Local Authorities to prepare and publish a Licensing Policy.
20. The statutory consultees on that policy are set out in Section 349(3) of the Gambling Act 2005:-
 - The Chief Officer of Police
 - Representatives of persons carrying on gambling businesses.
 - Representatives of persons who are likely to be affected by or otherwise have an interest in the licensing policy.
21. The Gambling Commission Guidance to Local Authorities, Part 6.16, suggests that the Authority should use a variety of consultation methods including meetings with gambling businesses in the local authority area and open forums for the public.

In addition, consultation with a range of organisations including faith groups, voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers, medical practices or primary care trusts, consultation with businesses who are, or will be holders of a premises licence, and consultation with the organisations named as responsible authorities in the Act.

Equality Impact

22. This report takes into account the Council's policy on equal opportunities.
23. This report takes into account the Council's policy on equality and diversity.
24. A Gambling Policy will impact equally on all racial groups.

25. A Gambling Policy will impact on children and young persons through their permitted attendance at certain categories of licensed premises.
26. There has been consultation and involvement of young people in developing this policy as part of the consultation process through the Area Committees and the Directorate of Children's Services.

Recommendation

27. That the Licensing and Safety Committee considers the responses to the consultation on the Council's Draft Gambling Policy, together with any consequent changes to the Draft Policy and recommends approval of the Policy to Cabinet and full Council.

John Poynter

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DIRECTOR OF LAW AND PROPERTY

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List of Background Papers

Gambling Act 2005

Gambling Commission Guidance to the Gambling Act

Dudley Metropolitan Borough Gambling Policy

Responses to the consultation of Dudley Metropolitan Borough Council's Gambling Policy.