

MUNICIPAL YEAR 2006/2007 REPORT NO. **149**

MEETING TITLE AND DATE:
Council 8 November 2006

REPORT OF:
Director of Environment, Street
Scene and Parks

Agenda – Part: 1	Item No. 8
Subject: Gambling Act 2005:- Statement of Principles, Resolution not to issue casino licences, Setting of fees and Delegation of small society lottery registrations.	
Wards – All Wards	
Cabinet Member consulted: Councillor Terence Neville	

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1. EXECUTIVE SUMMARY

- 1.1 The Gambling Act 2005 will be fully implemented on 1 September 2007. The council, as licensing authority, will be required to issue licences and permits under the Act.
- 1.2 The Council is required to prepare, consult upon and agree (and subsequently publish by 3 January 2007) a Statement of Principles (Licensing Policy) under section 349 of the Gambling Act 2005.
- 1.3 Consultation has been undertaken in accordance with section 349 (3) of the Act and the Council is asked to approve the statement of principles shown at Appendix 1.
- 1.4 In accordance with Section 166 of the Gambling Act 2005 the Council, as Licensing Authority, may resolve not to issue casino premises licences. Council is asked to consider passing such a resolution.
- 1.5 It is also necessary to agree delegation of the Council's powers to set fees for licence applications under section 212 of the Act to 'authorised persons' as listed in Appendix 2.
- 1.6 Functions under the Act in determining licences and permits are delegated to the Licensing Committee by virtue of section 154 (1) of the Act, except that when the regulations are published it is expected that the registration of small society lotteries will be delegated to the Executive or Council. In anticipation, the Council are asked to agree delegation of the Council's power of registration of small society lotteries to the Licensing Committee and 'authorised persons' listed in Appendix 2. However, if this responsibility is not delegated to the Council a subsequent report will be submitted.

2. RECOMMENDATIONS

- 2.1 To approve the statement of principles shown in Appendix 1.
- 2.2 To resolve not to issue casino premises licences with immediate effect.
- 2.3 To agree delegation for the setting of fees for premises licences to 'authorised persons' as listed in Appendix 2.
- 2.4 To delegate the responsibility for the registration of small society lotteries to the Licensing Committee and 'authorised persons' as listed in Appendix 2.

3. BACKGROUND

- 3.1 The Gambling Act 2005 will be fully implemented on 1 September 2007 (the 'second appointed day'). The Gambling Commission and Councils as Licensing Authorities will have duties to discharge under the Act.
- 3.2 The Gambling Commission will license gambling operators and gambling personnel.
- 3.3 The Council, as licensing authority, will issue premises licences for bingo halls, betting shops, race tracks, fairs and casinos (unless a resolution is passed not to accept casino applications – please see paragraph 5.0 below). In addition the Council will issue permits for amusement arcades, amusement with prizes machines in pubs & clubs, prize gaming and small society lotteries.
- 3.4 The 'first appointed day' of 30 April 2007 commences the transition to the implementation of the Gambling Act and is the date from which gambling operators can apply to the Council for premises licences and permits. Transitional arrangements for existing operators enable them to retain their existing rights in their licences and permits if they apply by 31 July 2007.
- 3.5 The Gambling Act 2005 requires that, in making decisions about premises licences, the Council should aim to permit the use of premises for gambling in so far as it thinks it is:
- In accordance with any relevant Code of Practice issued by the Gambling Commission
 - In accordance with any relevant Guidance issued by the Gambling Commission
 - Reasonably consistent with the Licensing Objectives
 - In accordance with the Council's Statement of Principles
- 3.6 The Licensing Objectives are:
- 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
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 3.7 Valid applications for licences and permits will be granted without reference to the Licensing Committee unless there is an objection from a 'Responsible Authority' or 'Interested Party.' 'Responsible Authority' and 'Interested Party' are defined in the Act.
- 3.8 'Responsible Authorities' include:
- The Gambling Commission
 - Her Majesty's Commissioners of Customs and Excise (now known as Her Majesty's Revenue & Customs)
 - The Metropolitan Police Service
 - The London Fire and Emergency Planning Authority

- The Council, as Licensing Authority
- The Council, as Planning Authority
- The Council's Director of Education, Children's Services and Leisure
- The Council's Environmental Health Service
- Any other person or body who may be prescribed by regulations made by the Secretary of State for Culture, Media and Sport ('the Secretary of State')

- 3.9 'Interested Parties' are persons who, in the opinion of the Council:
- (a) live sufficiently close to the premises and are to be likely to be affected by the authorised activities; and/or
 - (b) have business interests that might be affected by the authorised activities; or
 - (c) who represent persons who satisfy paragraph (a) or (b).
- 3.10 Once a licence is issued, it can be reviewed, following an application by one or more 'Responsible Authorities' or 'Interested Parties'.

4. STATEMENT OF PRINCIPLES

- 4.1 The Act requires the Council, as Licensing Authority, to prepare, consult on and publish an approved Statement of Principles every three years as to how they will discharge their functions. The Statement of Principles should reflect the Government's statutory guidance and be reviewed from time to time during each three-year period and revised as considered necessary.
- 4.2 The Statement of Principles is attached as Appendix 1 to this report.
- 4.3 The draft statement of principles was considered by the Licensing Committee on 10 July 2006 and was then placed on statutory public consultation and specifically sent to over 100 consultees. The consultation period ended on 13 October 2006. The Licensing Committee considered the statement again on 23 October 2006 in the light of the fifteen responses received and agreed the final draft.
- 4.4 The statement of principles is required to be approved by Council and published by 3 January 2007.
- 4.5 A key feature of the statement of principles is that it expressly states that gambling operators should have measures in place for the prevention of access by truanting children, prevention of access after 21:00 hours by unaccompanied children under 14 years old and prevention of access to adult-only gaming areas by children under 18 years old.

5. RESOLUTION NOT TO ISSUE CASINO LICENCES

- 5.1 Section 166 of the Gambling Act 2005 enables the Council to resolve not to issue casino premises licences.
- 5.2 Should a resolution be passed, no applications for casino premises licences would be considered. Any applications received would be returned with a notification that a 'no-casino' resolution is in place. The resolution must apply to casinos generally and cannot be limited to geographical areas or categories of casinos.
- 5.3 If a resolution is made it may be revoked by a further resolution at any time and lapses at the end of the three-year period starting with the date on which it takes effect unless a new resolution is made.
- 5.4 If a resolution is passed it must be published in the statement of principles.
- 5.5 In making such a resolution, the Council must specify the date that it takes effect and may have regard to any principle or matter as well as the licensing objectives.
- 5.6 There are currently no casinos within the London Borough of Enfield.
- 5.7 In considering whether to make a 'no casinos' resolution, Council are asked to have regard to:-
- Demographics of the borough
 - Possible risks to the licensing objective of protection of children and vulnerable adults
 - Possible links between deprivation and problem gambling
 - Findings of research on casino gambling
 - Responses from the statutory public consultation on the statement of principles on whether the council should make a 'no casinos' resolution
- 5.8 Enfield's population, diversity and deprivation are all increasing. Enfield continues to be the fifth largest London borough with a population estimated to be about 280,000 and expected to grow by an additional 7,000 people by 2011. It has relatively high numbers of children and young people compared to London (32.6% under 24) and is increasing, and pupil numbers in our schools have increased by 15% in the last 10 years.
- 5.9 Analysis by the Greater London Authority on child poverty has shown that 30.1 % of Enfield's children live in poverty (18 and under living in families claiming benefit) and in the neighbourhood renewal area this increases to nearly 50%. This ranks Enfield as the 30th worst authority in England and Wales for child poverty.
- 5.10 Enfield has seen the second highest percentage increase in England for Income Support claimants between 2001 and 2004. By looking at lone parent claimants as a proportion of child benefit claiming families in 2004, Enfield ranks 23rd in England (excluding the Isles of Scilly).

- 5.11 On almost all measures, Enfield is one of the most highly deprived outer London boroughs. There is a stark divide between average incomes in different parts of Enfield, comparing the north west with the south east of the borough. Council Tax benefit take-up ranges from over 40% of households in parts of Edmonton to 8% in areas of Western Enfield.
- 5.12 Unemployment is higher than both the London and national average with marked variation between wards. The unemployment rate in Edmonton Green is 10.7% compared to 2.1% in Grange ward.
- 5.13 Based on current population figures, 10% of 5-15 year olds are likely to have a diagnosable mental disorder. There are likely to be up to 4,000 people in the borough with learning difficulties, and there are over 50 private residential homes providing support for learning difficulties.
- 5.14 Nationally there has been a rapid increase in the amount of money spent on gambling in recent years; although much of this is attributed to the advent of internet gambling. Research shows that 3% of people frequent casinos but that casinos take 10% of gambling revenue. This would suggest that casino customers spend a great deal more than those using other gambling outlets.
- 5.15 If casinos were to be licensed within the borough, there is a likelihood that there would be a further impact upon the levels of poverty being experienced in the borough and that this could risk harm to children and vulnerable adults.
- 5.16 Also, it should be noted with regards to the presumed beneficial economic impact, Hall Aitken who are social and economic regeneration consultants made findings in their February 2006 study of 'The social and economic impact on regional casinos in the UK' that the:
- Estimates of economic benefit from a regional casino development are both optimistic and potentially misleading;
 - Social costs of regional casino development are potentially high and, for most locations, would outweigh any economic benefit; and
 - Proposed regional casino will, on balance, undermine government targets on neighbourhood regeneration.
- These findings were established from studies taken across the world looking at the impact of casino development and gambling in general.
- 5.17 In the recent public consultation on the statement of principles the majority of respondents (70%) were in favour of the Council passing a 'no casinos' resolution, 20% were against such a resolution and 10% did not express an opinion/did not know.
- 5.18 The council is asked to consider the above factors in determining whether to make a 'no casinos' resolution.

6. SETTING OF PREMISES LICENCE APPLICATION FEES

- 6.1 Section 212 of the Act will allow regulations (which will be published in January 2007) to be made whereby councils as licensing authorities can set the amount of fees for premises licence applications under the Act within fee bands prescribed by the Department of Culture, Media and Sport. There will be an initial fee to cover the cost of application and an annual “maintenance” fee. Each premises type will have separate fee bands. The fee selected must be limited to cost recovery.
- 6.2 The responsibility for deciding fees will fall to the Council but can be delegated to officers as confirmed in the Gambling Commission's Guidance for Local Authorities (published in April 2006).
- 6.3 It is recommended that this responsibility is delegated to ‘Authorised persons’ as listed in Appendix 2.

7. SMALL SOCIETY LOTTERIES REGISTRATION

- 7.1 The Gambling Act provides in section 154 that the functions of the Licensing authority are to be carried out by the Licensing Committee; except (as described above), the approval of the statement of principles, the setting of fees (unless delegated) and the registration of small society lotteries. Small Society Lottery Registration is not automatically delegated to the Licensing Committee and regulations are awaited to inform authorities whether it falls to the Executive or the Full Council.
- 7.2 On the assumption that the responsibility is delegated to Council, it is recommended that it is further delegated to the Licensing Committee and ‘Authorised persons’ as listed in Appendix 2. If this is not the situation when the regulations are published, this matter of delegation will be brought back to council.
- 7.3 Small Society Lotteries are run by non-commercial societies who may operate such lotteries only in order to raise funds for charitable, sporting, cultural or other non-commercial purposes.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 None.

9. REASONS FOR RECOMMENDATIONS

- 9.1 To meet the Council’s statutory responsibilities.

10. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS

10.1 Financial Implications

10.1.1 Fee bands for premises licences for permits and registrations will be set by the Secretary of State with the intention that licensing authorities will recover the costs of carrying out their related functions under the Gambling Act. Although it is the intention, it is not known if the fees will recover the full costs of carrying out this function.

10.1.2 A fees costing consultation ended on 22 September and draft regulations on fees are expected.

10.2 Legal Implications

10.2.1 The Council's statement of principles is, as with all of its decisions, susceptible to challenge by way of judicial review. Counsel's advice has been sought in relation to the draft statement of principles and he has advised that he does not consider the Council vulnerable to such challenge. This applies notwithstanding his view that the Council is placing greater expectations on operators than the Act specifies in relation to having measures preventing access by truanting children, preventing access after 2100 hours by unaccompanied children under 14 years old and preventing access to adult-only gaming areas by children under 18 years old in paragraphs 14.4, 16.3, 18.2, and 23.3 (for the purposes of protection of children from harm).

11. PERFORMANCE MANAGEMENT IMPLICATIONS

11.1 Decisions on each application will be made in accordance with any Code of Practice and guidance issued by the Gambling Commission, the licensing objectives and the Council's statement of principles.

11.2 The structure of the Act is such that the achievement of the Council's 'licensing objectives' will be heavily dependent upon the responsibility taken by businesses and effective objections by 'Responsible Authorities' and 'Interested Parties.' Such objections and determination of applications will mainly concern prevention of gambling from being a source of, or associated with, crime or disorder, and the protection of children and other vulnerable persons from being harmed or exploited by gambling. Ensuring that gambling is conducted in a fair and open way will fall within the remit of gambling operators and the Gambling Commission.

11.3 The statement of principles recognises the Gambling Act requires the council should aim to permit premises to be used for Gambling but also recognises

that this must be balanced against the importance of protecting local residents and businesses whose lives could be affected by poorly operated premises.

12. PUTTING ENFIELD FIRST

- 12.1 The Statement of Principles and 'no casinos' resolution seeks to support 'Putting Enfield First' and will specifically impact upon Aim 3: 'A Safer Enfield to Live, Work, Study and Do Business' by promoting community safety, economic success and quality of life.

Background Papers

The Gambling Act 2005

Regulations issued by the Secretary of State

Guidance to Licensing Authorities issued by the Gambling Commission

Delegated powers to discharge the Council's functions by 'Authorised Persons'

'Authorised persons' are:

- The Assistant Director (Environmental Protection and Regulation)
- Head of Trading Standards and Licensing
- Head of Environmental Health
- Head of Environmental Crime
- And persons duly authorised by any of the above post holders.