

# REPORT TO COUNCIL

28 OCTOBER 2009

**DEPUTY LEADER  
(+ENVIRONMENT)**  
*Councillor Nicholas  
Botterill*

**GAMBLING ACT 2005 – COUNCIL'S  
STATEMENT OF GAMBLING PRINCIPLES**

**WARDS**

**All**

**CABINET MEMBER  
FOR CRIME AND  
STREET SCENE**  
*Councillor Greg Smith*

## Summary

This report seeks approval for the Council's Statement of Gambling Principles and to renew the Council's 'no casino' resolution, which has been subject to public consultation.

The Act requires the Local Authority, as the Licensing Authority, to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three year period to which the statement applies.

Full Council must approve and publish this Statement of Principles by 3 January 2010 to come into effect on 31 January 2010.

Once approved, the Statement of Principles will be the key document which the Licensing Authority and Licensing Sub-Committee will use to assist in the determination of gambling premises licence applications.

## **CONTRIBUTORS**

DENV  
DFCS  
ADLDS

## Recommendation:

**That Council:**

- 1. approve and adopt a 'no casino' resolution;**
- 2. approve and adopt the Statement of Gambling Principles set out in Appendix 1 to this report, that it be published, and that the Director of Environment be authorised to make minor amendments or any changes arising from the publication of secondary legislation and guidance.**

## 1. BACKGROUND

- 1.1. The Gambling Act 2005 (to be referred to as 'the Act') created a new system of licensing and regulation for commercial gambling. The Act gives Local Authorities powers to licence premises for gambling, some of which were previously under the jurisdiction of the Magistrates Court.
- 1.2. The Act created a unified regulator for gambling in Great Britain, the Gambling Commission, and a new licensing regime for commercial gambling to be conducted by the Commission or by Licensing Authorities dependant on the matter to be licensed. The only exceptions are spread betting (regulated by the Financial Services Authority), remote gambling (regulated by the Gambling Commission) and the National Lottery (regulated by the National Lottery Commission). The Gambling Commission and the Licensing Authority share responsibility for all matters previously regulated by the Magistrates Court.
- 1.3. The Gambling Commission is responsible for granting operating and personal licences for commercial operators and personnel in the industry. Whilst the Licensing Authority issues premises licences for:
  - Betting offices and race tracks
  - Bingo clubs
  - Adult gaming centres
  - Family entertainment centresAnd permits for:
  - Gaming machines in alcohol-licensed premises, such as pubs
  - Gaming machines for members clubs
  - Gaming in members clubs
  - Family entertainment centres not licensed to sell alcohol (category D machines only, i.e. those that have the lowest level of stakes and prizes)
  - Occasional and temporary use notices
  - Provisional statements
- 1.4. In exercising most of the Council's functions under the Act, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. 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.
- 1.5. Section 153 of the Act requires that, in making decisions about premises licences and temporary use notices, the Council shall 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; and
  - in accordance with the authority's Statement of Gambling Principles.

## 2. STATEMENT OF GAMBLING PRINCIPLES

- 2.1. The first Statement of Gambling Principles came into effect on 31 January 2007. Licensing Authorities are required to prepare and publish a Statement of Gambling Principles which they propose to apply when exercising their functions under the Act every 3 years. It can be reviewed and republished during the three year period in which it has effect. Appendix 1 sets out the amended draft Statement of Gambling Principles proposed to be adopted by this Council.
- 2.2. Some amendment is required to update the Statement of Gambling Principles, having regard to changes made to the Statutory Guidance issued by the Gambling Commission. In reviewing the Statement of Gambling Principles there have only been minor alterations, as detailed in paragraph 2.3 below.
- 2.3. There has been concern that some premises may be sub-divided purely to take advantage of additional gaming machine entitlements offered by two separate premises licences. An additional paragraph in the Policy (paragraph 3.4) seeks to provide clarification on this matter and outlines several questions that an operator would need to answer before subdivision of a premises could be considered. This and other amendments have been highlighted in bold, in Appendix 1.
- 2.4. Whilst the Licensing Authority must have regard to this Statement of Gambling Principles it does not have to follow it completely in every case, but it must be taken into account and there must be strong defensible reasons for departing from it.
- 2.5. The Act and guidance sets out requirements as to the form and publication of the statement and includes detailed requirements on persons to consult. This has been carried out and followed.
- 2.6. The revised statement of principles will come into effect on 31 January 2010 and must be published at least 28 days prior to this date, i.e. by the 3 January 2010.
- 2.7. There are provisions under the Act for the Licensing Authority to attach conditions to a licence which relate to one of the three licensing objectives. Each application shall be dealt with on a case by case basis, but if it is felt that an applicant has not dealt with the provision of protecting children and vulnerable people adequately, conditions may be attached to the licence such as:
  - all gaming machines are in an area of the premises which is separated from the rest of the premises by a physical barrier which is effective to prevent access other than through a specific entrance;
  - only adults are allowed into the area where these machines are;
  - access to the area where the machines are is supervised;
  - the area where these machines are arranged must be so that it can be monitored by the staff or the licence holder;

- recognised proof of age schemes to be in place;
- at the entrance to, and inside any such areas, notices should be clearly displayed showing that people under 18 are not allowed in the area;
- the positioning of the entrance and gaming machines;
- closed circuit television to be provided;
- the requirement for door supervisors;
- specific opening hours;
- self barring schemes;
- providing information leaflets and helpline numbers for organisations such as Gamecare.

### **3. 'NO CASINO' RESOLUTION**

- 3.1. Section 166 of the Act states that a Licensing Authority may resolve not to issue casino premises licences. The decision to pass such a resolution may only be taken by the authority as a whole and cannot be delegated to the licensing committee. In passing such a resolution the authority may take into account any relevant principles or matters, not just the licensing objectives. Where a resolution is passed it must be published by the authority in its three year Statement of Gambling Principles.
- 3.2. In addition, the Statement of Gambling Principles should include details about how the authority will take the decision to pass a 'no casino' resolution. The proposal to pass a 'no casino' resolution is set out in paragraph 16 of the draft statement of gambling principles (Appendix 1).
- 3.3. A 'no casino' policy was initially adopted by full Council on 29 November 2006 and came into effect on the 31<sup>st</sup> January 2007, at the same time as the first Statement of Gambling Principles.
- 3.4. It is proposed that a 'no casino' resolution be re-adopted on the basis that the borough is predominantly residential in nature and a casino would be out of character to the area. In addition, we have a thriving and diverse leisure and night time economy, presently centred around 3 town centres. We would not want to create an imbalance between these competing town centre economies and are concerned that a casino located in one would be likely to have this effect. As the town centres are located in close proximity to residential premises, a casino located in a town centre would increase the likelihood of nuisance.

#### **4. PUBLIC CONSULTATION**

4.1. The draft amended Statement of Gambling Principles has been approved by the Cabinet Member for Crime and Street Scene (Councillor Greg Smith) for distribution for consultation.

4.1. The Council is obliged under the Act to consult with:

- The chief officer of police
- The fire and rescue authority
- The local planning authority
- The pollution department
- The local safeguarding children's board (LSCB)
- HM Revenue and Customs

4.2. In addition to the statutory consultees, the following have also been consulted:

- Trade associations
- Residents' associations
- Ward councillors
- Businesses
- Neighbouring authorities
- Chamber of commerce
- Drug and alcohol action team
- Crime and disorder reduction partnership
- Trade unions
- Other relevant people who could be affected by this policy

4.3. Best practice guidance states that the consultation period for this statement should be 12 weeks. Due to the Council's decision making process and the fact that there are no scheduled full Council meetings between October and January, there has been a reduced consultation period of 8 weeks, from 17 August 2009 until the 11 October 2009, to meet the tight deadlines and the implementation date.

4.4. Officers sent consultation letters/emails to all of the above and details of the consultation have been included in a newsletter for businesses which goes out to approximately 1600 premises, which includes licensed premises as well as placing an advertisement in H & F News.

4.5. The statement was also published on the Council's website using the on-line consultation facility.

4.6. Each response will be examined and consideration given to the comments received. The comments received from the consultation process will be collated in time for consideration at Cabinet and Full Council and be submitted as Appendix 2.

## **5. NUMBER OF PREMISES WITHIN THE BOROUGH**

5.1. This Authority currently has the following number of premises with a gaming permit or premises licence:

- Adult Gaming Centres - 13
- Betting Shops - 54
- Track betting premises (all the football grounds) - 3
- Gaming Permits - 59
- Small Society Lotteries - 57

5.2. There has been no significant increase or decrease in the number of premises requiring a gaming permit or a premises licence within the last three years. The most significant changes have been the closure of a Bingo hall and a slight reduction in the number of betting shops from 59 to 54.

## **6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE SERVICES**

6.1 The report seeks to adopt the existing Statement of Gambling Principles and re-affirm its position with regard to casinos. As such this maintains the status quo and there are no financial implications

## **7. COMMENTS OF THE ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)**

7.1 S. 349 of the Gambling Act 2005 requires the Council as a licensing authority to prepare and publish a Statement of the principles that it will apply in exercising its functions under the Act for successive three year periods from 31st January 2007. The reviewed policy must be in place at least 28 days before 31st January 2010. Regulations made under the Act prescribe a process for publicity and consultation and these requirements have been complied with. Similarly the statement of principles complies with the requirements of the regulations. The statement of principles must be adopted by full Council.

7.2 As explained in the body of the report, the Council may pass a “no casino” resolution should it consider that such a resolution is appropriate.

7.3 In considering this matter, Council needs to consider all relevant matters which are summarised in the report and in particular the results of the consultation exercise.

## **8. RECOMMENDATION**

8.1 That Cabinet recommends that Council approves and adopts a ‘no casino’ resolution.

8.2 That Cabinet recommends to Council that it approves and adopts the Statement of Gambling Principles set out in Appendix 1, that it be published, and that the Director of Environment be authorised to make minor amendments or any changes arising from the publication of secondary legislation and guidance.

**LOCAL GOVERNMENT ACT 2000**  
**LIST OF BACKGROUND PAPERS**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	The Gambling Act 2005	Adrian Overton x3081	Environment Services/ 5 <sup>th</sup> floor HTHX
2.	LACORS Gambling Act 2005 guidance notes to Licensing Authorities May 2009	Adrian Overton x3081	Environment Services/ 5 <sup>th</sup> floor HTHX
4.	LACORS statement of principles template – version 3 – published May 2009	Adrian Overton x3081	Environment Services/ 5 <sup>th</sup> floor HTHX
5.	List of consultees	Adrian Overton x3081	Environment Services/ 5 <sup>th</sup> floor HTHX
6.	Local Authority Gambling Return(s) for 08/09	Iain McCord x3081	Environment Services/ 5 <sup>th</sup> floor HTHX
7.	Gambling Commission fees and licence changes for August 2009	Valerie Ellison X3905	Environment Services/ 5 <sup>th</sup> floor HTHX
8.	Gambling Act 2005 fees for 09/10	Valerie Ellison X3905	Environment Services/ 5 <sup>th</sup> floor HTHX

<b>CONTACT OFFICER:</b>	<b>NAME: Valerie Ellison</b> <b>EXT: x3905</b>
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