

SCHEDULE OF ITEMS RECOMMENDED FROM COMMITTEES AND OTHER MEMBER BODIES

Committee: Council

Date: 18 October 2018

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[T120]

Member Body	Report No.
<p>LICENSING COMMITTEE – 12 SEPTEMBER 2018</p> <p>20. <u>GAMBLING ACT 2005 – LICENSING STATEMENT OF PRINCIPLES – THREE YEAR REVIEW</u></p> <p>The Committee considered a report, T97 previously circulated, that detailed the revised version of the Council’s Gambling Act 2005 – Statement of Principles for Licensing.</p> <p>The Senior Licensing Officer advised the Committee that it was requested to approve the Statement, as revised following the presentation of the draft version to the Committee on 11th April 2018. This was in consequence of the relevant consultation which had received two replies. The first had nothing to do with the consultation so was disregarded. The second was included as Appendix 1 to the report.</p> <p><i>Councillor Chris Morris left the meeting at this point, 12:10.</i></p> <p>The Senior Licensing Officer continued and explained that Table 1 in the report set out the proposed amendments to the draft Statement following the comments received. These amendments included clarifying the ‘sufficient evidence of the location’ wording, that the reference to ‘ethnic profile of residents in the area’ be retained as it would not lead to predetermination and it reflected the policy design to consider the society rather than individuals, and accepting that nothing within paragraphs 16.34 to 16.36 overrid the provisions of Section 172 of the Act.</p> <p>It was resolved:</p> <p>(i) That revised version of the Gambling Act 2005 – Statement of Principles for Licensing be</p>	<p>T97 (attached at Appendix)</p>

approved, including the amendments as stated in Table 1 in the report;

It was resolved TO RECOMMEND TO COUNCIL:

- (ii) That the approved Gambling Act 2005 – Statement of Principles for Licensing be adopted to come into effect on 31 January 2019, following a period of publication to be not less than 28 days.**

TITLE: GAMBLING ACT 2005 LICENSING STATEMENT OF PRINCIPLES – THREE YEAR REVIEW

COMMITTEE: LICENSING COMMITTEE

DATE: 12 SEPTEMBER 2018

AUTHOR: SENIOR LICENSING OFFICER

[T97]

1.0 ISSUE

1.1 To approve the revised version of the Council's Gambling Act 2005 - Statement of Principles for Licensing.

2.0 RECOMMENDATION(S)

2.1 That Members consider the content of this report, and approve the revised version of the Gambling Act 2005 - Statement of Principles for Licensing, subject to such amendments that they consider appropriate having considered the content of this report.

2.2 That Members recommend the approved Gambling Act 2005 - Statement of Principles for Licensing to full Council for adoption to come into effect on 31 January 2019, following a period of publication to be not less than 28 days.

3.0 BACKGROUND

3.1 The draft Statement of Principles of Licensing was presented to the Licensing Committee on 11 April 2018 and formal consultation took place between 1 May 2018 and 30 June 2018.

3.2 Officers received two responses from those consulted. One response did not relate to the consultation and for this reason has not been included in this report. The other response was from Gosschalks Solicitors on behalf of the Association of British Bookmakers (the "ABB"). This response asks that Members note their views on regulatory practice, and they also ask Members to consider making a small number of amendments to the policy. This response can be found as **Appendix 1** to this report.

4.0 SUMMARY

4.1 **Table 1** on the following page provides an overview of the suggestions made by the ABB in their official response.

Table 1

Current policy wording	ABB comment	Proposed amendment
<p>16.14 The council will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives.</p>	<p>This sentence seems incomplete, as it does not elude to what the consequences of this satisfaction would be and they suggest adding “if an application is to be refused” or similar wording to this.</p>	<p>16.14 The council will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives, if an application is to be refused.</p>
<p>16.16 The council will expect the local risk assessment to consider as a minimum:</p> <ul style="list-style-type: none"> <input type="checkbox"/> whether the premises is in an area of deprivation <input type="checkbox"/> whether the premises is in an area subject to high levels of crime and/or disorder the ethnic profile of residents in the area <input type="checkbox"/> the demographics of the area in relation to vulnerable groups <input type="checkbox"/> the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather 	<p>The ABB would request that references to their local risk assessment taking into account the ethnic profile of the area, and the affluence of the area be removed, as they believe that these statements suggest a predetermination by the Authority that persons from an area of lower affluence or of a certain ethnicity are more prone to commit crime associated with gambling activity, or are automatically vulnerable.</p>	<p>Members are advised that the text “the ethnic profile of residents in the area” was included as there is research that suggests problem gambling is more prevalent in persons from an ethnic minority background compared to those from a non-ethnic minority background. There are also studies which have suggested a link between problem gambling and a person’s economic status. Whilst it is true that a person’s ethnicity and affluence does not automatically make them vulnerable to the harms of gambling, or automatically lead them into a life of crime in order to fund a gambling addiction, Officers believe that these two considerations should remain in the policy, as the policy is not designed to look at individuals but reflects society as a whole, and the views of current academia.</p>
<p>16.34 Betting machines The Licensing Authority will, in line with Gambling Commission Guidance, take into account the size of the premises, the number of counter positions available</p>	<p>The ABB have asked that Members consider adding a section to clarify that these sections do not affect the legal rights afforded by section 178 of the Gambling Act 2005.</p>	<p>Officers suggest adding the following to the policy:</p> <p>16.37 Nothing contained in paragraphs 16.34 to 16.36 is intended to override the provisions of section 172 of</p>

<p>for person-to-person transactions and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under the age of 18 to bet) or by vulnerable persons, when considering the number, nature and circumstances of betting machines an operator proposes to offer.</p> <p>16.35 When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, among other things, shall take into account:</p> <ul style="list-style-type: none"> <input type="checkbox"/> the size of the premises; <input type="checkbox"/> the number of counter positions available for person to person transactions; and <input type="checkbox"/> the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons. <p>16.36 In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merit and account will be taken of codes of practice or guidance issued under the Act.</p>		<p>the Gambling Act 2005 to provide gaming machines under the authority of a Premises Licence.</p>
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5 CONCLUSIONS

- 5.1 The Association of British Bookmakers (ABB) have provided a very constructive document for member's consideration. Although the comments in this document do not discuss the items listed in **Table 2** on the following page (which were the items for consultation), they do provide very useful feedback on the sections dealing with local risk assessments and gaming machines.

Table 2

<p>1) Removal of 'non-commercial' from 'incidental non-commercial lottery' in section 33.6 to reflect the change made by The Legislative Reform (Exempt Lotteries) Order 2016.</p> <p>2) Removal of references to a premises needing to be ready to provide gambling functions before a licence can be issued in paragraph 16.8, as a result of the Gambling Commission removing references to this requirement from their Guidance to Licensing Authorities 5th Edition.</p> <p>3) Plans information added in paragraph 16.9.</p>
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5.2 Members are not bound to follow the suggestions provided by Officers in **Table 1**.

5.3 The main consultation items in **Table 2** have not received any adverse comments, and reflect legislative changes or changes to statutory guidance and for that reason, Members are recommended to recommend Council to adopt these changes as consulted.

6.0 FINANCIAL IMPLICATIONS

6.1 There are no cost implications over and above the normal costs of administering the 2005 Act.

6.2 An Equality Impact Assessment (EIA) has been completed showing there is no adverse impact on the community.

7.0 APPENDICES

7.1	Appendix 1	ABB response
7.2	Appendix 2	Equality Impact Assessment (EIA)

Background Documents

	<u>Location</u>	<u>Contact Officer</u>
The Gambling Act 2003		
Gambling Commission guidance for Local Authorities.	Room SF208 The Grange, Ely	Senior Licensing Officer (01353) 616477
Gambling Commission: Strengthening social responsibility: LCCP amendments		