

**NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL**

**LICENSING COMMITTEE – 4<sup>TH</sup> OCTOBER 2006**

Title of report	<b>GAMBLING ACT 2005 STATEMENT OF LICENSING POLICY</b>
Contacts	<p><b>Portfolio holder – Councillor Dai Male</b>  <b>Tel: 01530 451725 <a href="mailto:dai.male@nwleicestershire.gov.uk">dai.male@nwleicestershire.gov.uk</a></b>  <b>Head of Environmental Health – Kathryn Preece</b>  <b>Tel: 01530 454568 <a href="mailto:kathryn.preece@nwleicestershire.gov.uk">kathryn.preece@nwleicestershire.gov.uk</a></b>  <b>Licensing Officer – Emma McHugh</b>  <b>Tel: 01530 454838 <a href="mailto:emma.mchugh@nwleicestershire.gov.uk">emma.mchugh@nwleicestershire.gov.uk</a></b></p>
Purpose of report	<b>To present key issues for members to consider regarding the Gambling Act 2005</b>
Strategic aims	
Implications:	
Financial/Staff	<b>There will be a cost in preparing, consulting upon and adopting the draft Statement of Licensing Policy, which can be funded from existing budgets.</b>
Health/Anti-Poverty	<b>None.</b>
Crime and Disorder	<b>The Licensing Authority must undertake its responsibilities to prevent crime and disorder and the draft policy acknowledges the impact of crime and disorder issues.</b>
Risk Management	<b>Not applicable.</b>
Human Rights	<b>The draft policy complies with the Human Rights Act.</b>
E-Government	<b>None.</b>
Consultees	<b>See Appendix 1</b>
Comments of Monitoring Officer	<b>On the advice of external solicitors, the report is satisfactory</b>
Comments of Section 151 Officer	<b>The report is satisfactory</b>

Comments of Head of Paid Service	<b>The report is satisfactory</b>
Background papers	<b>Gambling Commission Guidance to Local Authorities</b>
Recommendations	<p><b>1. To consider the suggested changes to the draft Statement of Licensing Policy and make any further comments for onward consideration by Council on 31<sup>st</sup> October 2006.</b></p> <p><b>2. To consider the changes to the constitution to incorporate the operation of the Gambling Act 2005 and make any further comments for onward consideration by Council on 31<sup>st</sup> October 2006.</b></p> <p><b>3. To consider the proposed delegation scheme (Appendix 9) and make any further comments for onward consideration by Council on 31<sup>st</sup> October 2006.</b></p> <p><b>3. To note the current position in relation to setting the fees.</b></p> <p><b>4. To advise Members of the mandatory training to be provided for the Gambling Act 2005.</b></p>

## **1. Draft Statement of Licensing Policy**

- 1.1 The Gambling Act 2005 ('the Act') received Royal Assent on 7<sup>th</sup> April 2005 and introduces a new regime to control all gambling with the exception of the National Lottery and spread betting. The purpose of the Act is to modernise gambling legislation, consolidating the existing three Acts into a single Act.
- 1.2 In preparation for the Act coming into force in September 2007, section 349 of the Act requires that Licensing Authorities prepare and publish a statement of principles which they intend to apply when exercising their functions under the Gambling Act 2005. This statement of principles is to be referred to as the Statement of Licensing Policy ('the Draft Policy').
- 1.3 Following approval by members at a Licensing Committee held on 28<sup>th</sup> June 2006, the Draft Policy was sent out for consultation for 12 weeks commencing on 3<sup>rd</sup> July 2006. The consultation comprised of letters sent to all relevant bodies requesting their comments on the Draft Policy. A list of the bodies consulted is attached as appendix 1.
- 1.4 The consultation period expired on the 25<sup>th</sup> September 2006. The consultation responses received up until 21<sup>st</sup> September 2006 have been considered below. Any further consultation responses will be reported by officers to committee with further received comments. A schedule listing the responses received is attached as appendix 2 with the correspondence received attached as further appendices 3 to 7. The responses have been considered by Officers on the advice of an external solicitor and the relevant comments are some of the suggestions made by Gamcare (the National Association for Gambling Care) for inclusion in the policy.

1.5 Following the consultation exercise, the Draft Policy has been amended to incorporate the relevant responses and the Draft Policy which is attached as appendix 8 has been produced. All amendments made to the Draft Policy are shown in italics.

1.6 Members' confirmation is sought that the Draft Policy may be taken to Full Council on 31<sup>st</sup> October 2006 for final approval and adoption and changes to the constitution prior to the policy publication in January 2007. Once the Draft Policy has been finalised, it must be published 4 weeks prior to it coming in effect on 31<sup>st</sup> January 2007.

## **2. Delegation**

2.1 Under the Gambling Act 2005, all decisions relating to premises licences are automatically delegated to the Licensing Committee that was established under the Licensing Act 2003 except a resolution not to issue casino licences, functions in relation to the three-year licensing policy and the setting of fees.

2.2 As with the Licensing Act 2003, certain decisions that are delegated to the Licensing Committee under the Gambling Act 2005 can be further delegated to a Sub-Committee, some may be taken by an officer of the authority and certain decisions are reserved for the Sub-Committee or full Licensing Committee.

2.3 The Gambling Commission Guidance to Local Authorities suggests a scheme of delegation which may be the most appropriate method for this. A copy of the table is attached as appendix 9.

2.4 Members are advised that in view of the additional work anticipated by the Act and the hearings that may be necessary officers support this proposed scheme of delegation and it is recommend that the delegation arrangements set out in appendix 9 are satisfactory as it will be necessary to submit this to full Council for inclusion in the Council's Constitution.

2.5 A further point under the issue of delegation is that Small Society Lottery Registration is not automatically delegated to the Licensing Committee. Further regulations are due to be published which will inform whether the delegation powers will fall to the Executive Board or the full Council. Once these regulations have been published, a separate report will be taken to the Executive Board or full Council recommending that Small Society Lottery Registration is delegated to the Licensing Committee who will delegate this to officers. Members are asked to note the position.

## **3.0 Fees**

3.1 As advised in previous reports, the fee regulations are still outstanding but are due to be laid in November. The regulations are expected to set bands levels and it would be then for the Licensing Authority to decide what fees to set within these bands. Under section 154 of the Act, the decision of what fees to charge may be delegated by Full Council to the Licensing Committee. Once the regulations are laid then a further report will be brought for Members decision on the setting of fees within bands on a cost recovery basis.

#### **4. The Functions of a Licensing Authority**

- 4.1 Under the Gambling Act 2005, a responsible authority or interested party may make representations to the Licensing Authority on an application for a premises licence. The Licensing Authority falls within the definition of a responsible authority. As a responsible authority, the Licensing Authority has the power to make representations in respect of any application for, and in relation to, a premises licence.
- 4.2 A premises licence may be reviewed by the Licensing Authority at its own instigation without the need for representations from other responsible authorities or interested parties. The review could relate to a particular class of premises licence or to particular premises. The Licensing Authority may initiate a review where, for example, there are concerns about particular premises relating to the use made of the premises and in particular, arrangements made to ensure compliance with conditions attached to the premises licence.
- 4.3 An application for review may also be made by a responsible authority or interested party. On receipt of the application, the Licensing Authority must initially decide whether to grant a review or reject the application in whole or part. The decision to grant a review must not prejudice the outcome of a review.
- 4.4 As the decision on a review application may be made by a Sub-Committee, it would not be appropriate for the Committee itself to initiate a review or consider whether to accept a review then hear the application itself. For this reason, officers recommend that decisions to grant or instigate reviews be delegated to the Director of Environment.

#### **5. Changes to the Constitution**

- 5.1 Section 154(1) of the Act, delegates the functions of the Licensing Authority to the Licensing Committee established under the Licensing Act 2003. Accordingly, the Council should formally delegate these functions to the Licensing Committee.
- 5.2 Members comments are sought on the amendments to the Council's Constitution as above prior to final approval by full Council.

#### **6. Member Training**

- 6.1 At the last Licensing Committee held to consider the Draft Policy, it was suggested that Members undertake training prior to the start of the transition period which commences 28<sup>th</sup> April 2006 in order to be fully prepared to sit on the Sub-Committee. As advised, Member training has been arranged for Monday 11<sup>th</sup> December 2006. Times are still to be confirmed but it is anticipated that that this will be a full day's training. Officers will confirm details of the training day in writing at a later date and course materials will be distributed prior to the day. It is imperative that all members attend the training as this will be the only opportunity to be trained under the Act. Furthermore, without training members will not be able to sit on any Sub-Committee in line with the Licensing Committee policy.