



FYLDE BOROUGH COUNCIL



Meeting Agenda

**Licensing Committee
Studio Room, Lowther
Pavilion, Lytham
1 March 2006, 10.00a.m.**

Membership

Licensing Committee

CHAIRMAN - Councillor Dawn Prestwich

VICE-CHAIRMAN – Vacancy

Councillors

Christine Akeroyd

Janine Owen

Vacancy

Albert Pounder

Elizabeth Clarkson

Heather Speak

Peter Collins

Martin Taylor

Susan Fazackerley

Vacancy

Karen Henshaw JP

Keith Wright

Steve Mason

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CORPORATE OBJECTIVES

The Council's investment and activities are focused on achieving our five key objectives which aim to :

- Conserve, protect and enhance the quality of the Fylde natural and built environment
- Work with partners to help maintain safe communities in which individuals and businesses can thrive
- Stimulate strong economic prosperity and regeneration within a diverse and vibrant economic environment
- Improve access to good quality local housing and promote the health and wellbeing and equality of opportunity of all people in the Borough
- Ensure we are an efficient and effective council.

CORE VALUES

In striving to achieve these objectives we have adopted a number of key values which underpin everything we do :

- Provide equal access to services whether you live in town, village or countryside,
- Provide effective leadership for the community,
- Value our staff and create a 'can do' culture,
- Work effectively through partnerships,
- Strive to achieve 'more with less'.



A G E N D A

PART I - MATTERS DELEGATED TO COMMITTEE

ITEM	PAGE
1. DECLARATIONS OF INTEREST: <i>In accordance with the Council's Code of Conduct, members are reminded that any personal/prejudicial interests should be declared as required by the Council's Code of Conduct adopted in accordance with the Local Government Act 2000.</i>	4
2. CONFIRMATION OF MINUTES: <i>To confirm as a correct record the minutes of the Licensing Committee meeting held on 22 August 2005 (previously circulated)</i>	4
3. SUBSTITUTE MEMBERS: <i>Details of any substitute members notified in accordance with council procedure rule 26.3</i>	4
4. GAMBLING ACT 2005	5
5. PROVISIONS RELATING TO GAMING MACHINES IN LICENSED PREMISES	11

REPORT

REPORT OF	MEETING	DATE	ITEM NO
CONSUMER WELLBEING AND PROTECTION	LICENSING COMMITTEE	1 ST MARCH 2006	4

GAMBLING ACT 2005

Public/Exempt item

This item is for consideration in the public part of the meeting.

Summary

The new Gambling Act 2005 is now partly in force. Current expectations are that the Act will be brought fully into effect on 1st September 2007 and that licensing authorities will begin to accept applications for gambling licenses from 31st January 2007. The Act imposes new duties on local authorities to licence premises used for gambling and seeks to control all forms of gambling. During 2006 the Council must consult on and adopt a licensing policy for gambling.

Recommendation/s

That the committee approve the formulation of a draft licensing policy for consultation.

Report

Introduction

The existing law on gambling is now more than 30 years old. The current laws do not cater for modern technology of the internet and have not kept up with changes in society. The government reviewed these laws and has produced new legislation to modernise regulations and ensure that it can respond flexibly to future technology and market elements.

The Gambling Act 2005 makes the Council responsible for the licensing of various forms of gambling that currently are dealt with by the magistrates courts. Other aspects of gambling will be regulated by the Gambling Commission which supersedes the Gaming Board. The new Act requires the Gambling Commission to issue guidance to licensing authorities on the manner in which and the principles to be applied in exercising their functions under the Act.

The new licensing regime consists of operators and personal licences which will be issued by the Gambling Commission and premises licences which will be issued by local authorities.

Comparisons with the Licensing Act 2003

The Gambling Act applies many of the principles introduced by the Licensing Act but with some of the more problematic aspects of the latter legislation having been resolved. For example, under the Gambling Act, the licensing authority also becomes a responsible authority which allows them significantly more discretion in the way that applications are dealt with and in the way licenses are reviewed.

Procedurally, the Gambling Act builds upon the Licensing Act concept of the Council as the Licensing Authority, subject to a small number of functions that are reserved to Full Council. The Licensing Committee (as opposed to the Public Protection Committee) will become responsible for decisions to be taken under the Act, with again hearings by panels in appropriate circumstances.

The New Provisions

The reforms will:

- Replace the three Acts of Parliament, namely:

The Betting and Gambling and Lotteries Act 1963; The Gaming Act 1968 and The Lotteries and Amusements Act 1976; and subordinate legislation governing the conduct of gambling in Great Britain and consolidate them into one Act.
- Establish a Gambling Commission
- Set up a new regulator with the Gambling Commission, with powers to deal with gambling offences.
- the choice for adult gamblers. Extend
- Ensure that consumers are fully informed about the products they use and the risks involved.
- Set up a system to regulate online gambling.
- Ensure that systems are in place to protect children and the vulnerable.

The Gambling Commission will issue operating and personal licences. The licensing Authority will issue premises licences. The Act provides for licensing authorities to permit the use of premises for gambling in so far as they think it reasonably consistent with the licensing objectives, in accordance with the

Commission's guidance and any relevant code of practice and the authority's statement of licensing policy.

Licensing Objectives

Like the Licensing Act 2003, the Act contains three licensing objectives which underpin the functions that the Commission and licensing authorities will perform and which are central to the new regulatory regime created by the Act –

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support criminal activity
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or

Licensing Responsibilities

Three distinct elements are introduced for the licensing of gambling. The Commission will be responsible for the issue of operating and personal licenses for commercial gambling operators and personnel working in the industry. Licensing authorities will have new powers to license gambling premises including Casinos, Bingo Halls, Betting Shops, adult entertainment centres etc as well as undertaking functions in relation to lower stake gaming machines. The Act also creates a new system of temporary use notices (not dissimilar to temporary events notices) for premises used for certain types of gambling for limited periods.

The Council's responsibilities as a licensing authority are summarised below –

- the licensing of premises for gambling activities, including casinos, bingo, betting including tracks and premises used by betting intermediaries, adult gaming centres, and family entertainment centres;
- considering notices for the temporary use of premises for gambling;
- the grant of permits for gaming and gaming machines in clubs;
- regulating gaming and gaming machines in premises licensed for the supply of alcohol;
- granting permits for prize gaming;
- considering occasional use notices for betting at tracks;
- registering small societies' lotteries; and
- monitoring the gambling that occurs at travelling fairs within the area.

Statement of Licensing Policy

In preparing the statement of licensing policy which will last for 3 years, unless changed within that time, the authority must have regard to the Commission's guidance. It is currently proposed that the following issues should be addressed and reflected in the statement –

- a statement of the three licensing objectives;
- the fact that applications must be determined on merit without regard to demand;
- a summary of the matters contained in the statement, the area to which it applies, and listing the persons consulted in preparing the statement;
- the principles to be applied in designating a competent body to advise on the protection of children from harm;
- the principles to be adopted in determining whether a person is an interested person in relation to a license;
- the principles to be adopted in terms of inspections and the institution of criminal proceedings;
- factors to be taken into account in determining applications;
- a statement as to whether a resolution has been made not to issue casino licences;
- how information will be exchanged with other regulatory bodies;
- a statement of principles for applicant suitability for FEC permits or prize gaming permits; and
- a declaration that regard has been had to the statutory guidance in producing the statement.

Additional information also needs to be made available by the authority either in the statement or by other means as part of a communications strategy on the availability of public registers, fees, the application process, a list of responsible authorities and their contact details, how representations can be made, how application can be made for licences to be reviewed and how functions will be delegated by the authority.

Funding

The ongoing costs of the new responsibilities should be met by initial application and annual fees for premises licences and fees for permits and other permissions. Fees for premises licences will be set via a series of bands with a prescribed maximum in each. Licensing authorities will be free to set their own fees within the band maxima, limited to cost recovery.

There will however be initial start up costs, which will include the drafting and implementation of the Licensing Policy; setting up of a data base, including modifications to the existing licensing computer software system (Lalpac); member training and additional training of staff on administration and enforcement.

It is anticipated that the above costs will be absorbed by the licensing service, through efficiency savings.

Conclusion

The Act transfers functions to the Council in its role as the licensing authority. Guidance, codes of practice and regulations will be issued throughout the forthcoming year for comment with the first applications expected in January 2007. Prior to that, the authority will need to consult on and publish its statement of licensing policy which is likely to have to take place over the forthcoming summer.

IMPLICATIONS	
Finance	
Legal	Like the Licensing Act 2003, the Gambling Act 2005 is essentially a liberalising measure. It is important that councillors, stakeholders and the community appreciate that the transfer of licensing powers to the local authority does not bring gambling under local control: instead, it essentially makes local authorities the bodies responsible for administering government priorities and policies.
Community Safety	
Human Rights and Equalities	
Sustainability	
Health & Safety and Risk Management	

Report Author	Tel	Date	Doc ID
STUART HANDLEY	(01253) 658603	9TH FEBRUARY 2006	

List of Background Papers		
Name of document	Date	Where available for inspection

<p>Guidance to Licensing Authorities</p> <p>Consultation Document,</p>	<p>December 2005</p>	<p>Gambling Commission</p> <p>Berkshire House, 168-173 High Holborn, London WC1V 7AA</p>
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REPORT

REPORT OF	MEETING	DATE	ITEM NO
CONSUMER WELLBEING AND PROTECTION	LICENSING COMMITTEE	1 ST MARCH 2006	5

PROVISIONS RELATING TO GAMING MACHINES IN LICENSED PREMISES

Public item

This item is for consideration in the public part of the meeting.

Summary

Following the implementation of the Licensing Act 2003, responsibility for the registration of gaming machines in licensed premises has passed from the Magistrates Court to the Licensing Authority.

A policy was applied by the Magistrates concerning the number of machines a premises could install and as such a policy is required in the Borough.

Formal delegation should also be established for applications where no objections are received.

Recommendation/s

That the Consumer Wellbeing and Protection Manager be authorised to determine applications for the grant and renewal of permits for gaming machines under Section 34 of the Gaming Act 1968 and for prize gaming under Section 16 of the Lotteries and Amusements Act 1976.

In the event of objections being received, or in cases where the Consumer Wellbeing and Protection Manager is minded to refuse an application, the Licensing Committee

be authorised to determine applications for the grant or renewal of permits for gaming machines under Section 34 of the Gaming Act 1968 and for prize gaming under Section 16 of the Lotteries and Amusements Act 1976.

The Consumer Wellbeing and Protection Manager be authorised to make and vary orders for the playing of certain games on premises with a Premises Licence under Section of the Gaming Act 1968

In the event of objections being received or in cases where the Consumer Wellbeing and Protection Manager is minded to refuse or vary an application or to revoke an order, the Licensing Committee be authorised to hold a hearing and to determine the application or revoke the order for the playing of certain games on premises with a premises licence under Section 6 of the Gaming Act 1968.

Report

1. INTRODUCTION

The Licensing Act 2003 has amended certain aspects of the Gaming Act 1968 and the Lotteries and Amusements Act 1976 and transferred responsibility to District Councils from the courts for the licensing of gaming machines and prize gaming and for the playing of games on premises which are licensed for the sale of alcohol.

Pending the implementation of the Gambling Act 2005, which is anticipated with effect from September 2007, the Committee is required to have in place the necessary delegations etc. to enable applications for gaming machines and prize gaming etc. premises which are licensed for the sale of alcohol, to be determined.

2. LICENSABLE ACTIVITIES

The Act transfers responsibility to local Councils with effect from 24th November 2005 for the licensing of the following activities in premises which have a Premises Licence:-

- gaming machines
- prize gaming permits (prize bingo)
- the playing of certain games for the purpose of gaming.

The Council was previously responsible for licensing both gaming machines and prize bingo in premises without a justices on-licence, the former usually comprising cafes, take away food outlets, private hire waiting rooms etc. The responsibility for licensing gaming machines in clubs will remain with the magistrates courts until such time as the Gambling Act is enacted.

DCMS Gambling Circular 13 explains the transitional arrangements for the transfer of responsibility to the Council. Existing permits will continue to operate for the remainder of any unexpired term of their 3 year duration and any orders issued by the courts for the playing of games will similarly remain valid.

The 2003 Act also defines the Council's responsibilities under the Gaming Act 1968 and the Lotteries and Amusements Act 1976 as¹²licensing activities for the purposes of the

Licensing Act 2003” which means that they fall within the remit of the Licensing Committee and not the Public Protection Committee.

3. DELEGATIONS

The DCMS circular makes it clear that it is expected that the majority of decisions to be made in determining applications for the grant or renewal of permits and in making orders will be delegated to officers, although there will need to be a mechanism for hearing representations and to afford an applicant an opportunity to appear before a committee or panel in the event of officers being minded to refuse an application.

Statutory fees apply to the licensing of gaming machines and prize gaming permits and there is no fee payable for applications for orders for the playing of certain games. The Council does not have any enforcement responsibilities under the Acts which are matters for the Police and the Gaming Board. For this reason, the Council’s officers have no powers of entry under the legislation.

4. CONCLUSION

The arrangements for gambling in this country will be changed substantially in 2007 by the Gambling Act but in the interim, the Council will become the licensing authority for all gaming machines in the District (with the exception of those in clubs), for prize gaming and for making orders for gaming on licensed premises. Although the transfer is likely to be time consuming in terms of the transfer of records from the courts, it appears that it will be possible to absorb the grant and renewal of permits within existing resources largely funded by the permit fees.

New delegations are now required both for the new licensing functions and for the existing ones which will have to be transferred from the Public Protection Committee.

IMPLICATIONS	
Finance	
Legal	
Community Safety	
Human Rights and Equalities	
Sustainability	
Health & Safety and Risk Management	

REPORT AUTHOR	TEL	DATE	DOC ID
Chris Hambly	(01253) 658422	3 rd February 2006	

LIST OF BACKGROUND PAPERS		
NAME OF DOCUMENT	DATE	WHERE AVAILABLE FOR INSPECTION
DCMS Gambling Circular 13	Oct 2005	Licensing Office, Town Hall

Attached documents

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