

Report to the Cabinet

Report reference: C/078/2006-07.

Date of meeting: 13 November 2006.



**Epping Forest
District Council**

Portfolio: Environmental Protection.

Subject: Gambling Act 2005 – Adoption of Statement of Principles and Consequential Changes to the Licensing System.

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Recommendations:

- (1) That the Statement of Principles made under the Gambling Act 2005 be recommended to the Council for adoption; and**
- (2) That the functions outlined in the Statement of Principles be delegated to the Licensing Committee.**

Gambling Act Statement of Principles:

1. The Gambling Act 2005 modernises the legislation governing gambling by creating a single regulatory body, the Gambling Commission, and giving responsibility for licensing premises where gambling takes place to local authorities, making them designated Licensing Authorities for the purposes of the Act. Each Licensing Authority must, in respect of each three-year period, starting in January 2007, publish a "Statement of Principles" before the beginning of each period.

2. This report deals solely with the establishment of this Statement of Principles and the delegation of authorities. There are likely to be resource implications for Environmental Services due to the increase in the number of licenses administered, and there may be implications for the Policy Unit and Legal & Administrative Services should a significant number of applications receive representations.

3. The Statement of Principles must describe how the Licensing Authority will promote the licensing objectives set out in the Act, these are:

- (a) The prevention of gambling being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- (b) Ensuring that gambling is conducted in a fair and open way; and
- (c) The protection of children and other vulnerable persons from being harmed or exploited by gambling

Following extensive consultation (see later section on consultation) the Statement of Principles has been developed and can be viewed on the Council's website or in the Members Room.

4. It is important for members to note that, like the present arrangements for the Licensing Act 2003, conditions or restrictions can **only** be applied where they are relevant to meeting the licensing objectives set out above. All other conditions will be illegal and challengeable in the Courts. Furthermore, objections ("representations") are restricted to

what the Act defines as “responsible authorities” or “interested parties”. This means that representations can only be considered if they are received from:

(a) **“Responsible authorities”:**

- the police authority;
- the fire authority;
- the local planning authority;
- the authority responsible for the protection of children;
- the authority responsible for health & safety at work;
- the Gambling Commission;
- HM Customs and Excise; and
- Any other person prescribed by regulations of the Secretary of State; or

(b) **“Interested parties”:**

- a person or persons living in the vicinity;
- a person involved in a local business; and
- a body or person representing them (although, in the case of the Gambling Act, an elected Member can be an interested party on the basis of their elected status).

If no representations are received, or they are not associated with one or more of the licensing objectives, an application must be approved.

The Licensing Committee:

5. The Act states that all matters relating to the discharge by a Licensing Authority of its licensing functions are to be delegated to its Licensing Committee and, accordingly, that committee must discharge those functions on behalf of the authority. This excludes the making of the Statement of Principles, which is a function of the Licensing Authority as a whole (i.e. the Council). This places the Licensing Committee in the same position that it holds relative to the Licensing Act 2003.

6. The current Licensing Committee will satisfy the requirements of the Act. It is therefore recommended that the functions set out in the Statement of Principles be delegated to the Licensing Committee.

Constitutional Changes:

7. To accommodate the additional licences, the Constitution will require updating with the new delegated functions.

Statement In Support Of Recommended Action:

8. To comply with the requirements of the Gambling Act 2005 and to ensure that the functions undertaken by the Council are constitutionally and legally correct.

Other Options For Action:

9. There is no option other than to adopt a Statement of Principles under the Act.

10. There is the option not to delegate these licensing functions to the existing Licensing Committee, however this would fragment licensing policy making between different decision making bodies, and this option has therefore been rejected.

Consultation Undertaken:

11. It is a requirement of the Act that before determining its statement, a Licensing Authority must consult:

- the Chief Officer of police for the Licensing Authority's area;
- the Fire Authority for that area;
- HM Customs and Excise;
- such persons as the Licensing Authority considers to be representative of holders of current licences issued under existing legislation; and
- such other persons as the licensing authority considers to be representative of businesses and residents in its area.

12. A list of those consulted is to be found as an appendix to the Statement of Principles and the comments received together with the responses made to those comments are attached.

Resource implications:

Budget provision: The licenses granted under the Gambling Act 2005 are currently administered by other bodies. The fees will be set by statute and are as yet unavailable, but the implementation of the Act will result in additional income to the authority. This may however be offset if it becomes necessary to increase the establishment to meet the additional workload.

Personnel: The extent of the demand for licenses under the Gambling Act 2005 is, as yet, unknown. Any need for additional staffing resources will be the subject of a further report.

Land: All premises licensable under the provisions of the Gambling Act 2005 within the District .

Community Plan/BVPP reference: None.

Relevant statutory powers: Gambling Act 2005.

Background papers: The Statement of Principles drafted in accordance with the Gambling Act 2005.

Environmental/Human Rights Act/Crime and Disorder Act Implications: See licensing objective as set out above.

Key Decision reference (if required): Adoption of the Statement of Principles will be a key decision.