

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO LICENSING COMMITTEE

11 DECEMBER 2015

REPORT OF ASSISTANT CHIEF EXECUTIVE LEGAL AND REGULATORY SERVICES

GAMBLING ACT 2005

STATEMENT OF LICENSING PRINCIPLES 2016-2019

1. Purpose of Report.

- 1.1 To advise the Licensing Committee of the report to Council seeking to approve the Council's Statement of Licensing Principles for gambling premises to cover the period 2016-2019.

2. Connection to Corporate Improvement Objectives/Other Corporate Priorities

- 2.1 The proposal is required to effectively discharge the functions of the authority to comply with the Gambling Act 2005.

3. Background.

- 3.1 The Gambling Commission is the unified regulator for gambling in Great Britain and it is responsible for granting operating and personal licences for commercial gambling operators. However, the responsibility for licensing individual premises, as well as functions in relation to issuing permits and registrations rests with local authorities. The Gambling Commission issues statutory Guidance on the manner in which local authorities are to exercise their functions under the Gambling Act 2005.
- 3.2 The Council, as a licensing authority must publish, on a three year basis, a Statement of Licensing Principles governing the regulation and decision making process relating to gambling premises. The current Statement of Licensing Principles is due to expire in January 2016. Before publishing a new Statement the authority must undertake a statutory consultation exercise.
- 3.3 This report outlines the response to the consultation and makes recommendations for revisions to the Statement of Licensing Policy, the approval of which is a Council function.
- 3.4 The consultation process is prescribed by legislation but is extended to include BCBC Members, Town and Community Councils, community groups and consultation via the Council's website. A list of consultees is shown within the draft Statement of Licensing Principles attached as Appendix A to this report. The proposed amendments to the current policy are shown shaded within the document.
- 3.5 For information, the Gambling Act 2005 gives the Council as a licensing authority, a number of regulatory functions in relation to gambling. These include to:
- licence premises for gambling activities

- consider notices given for the temporary use of premises for gambling
- grant permits for gaming and gaming machines in clubs and miners' welfare institutes
- regulate gaming and gaming machines in alcohol-licensed premises
- grant permits to family entertainment centres (FECs) for the use of certain lower stake gaming machines
- grant permits for prize gaming
- consider occasional use notices for betting at tracks
- register small societies' lotteries.

3.5.1 The Act sets out three licensing objectives which are central to regulating gambling. These 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.

3.6 The authority cannot take into account other considerations such as moral or ethical objections to gambling. In addition, the authority is not responsible for regulating remote gambling and cannot therefore adopt policy guidelines in respect of online gambling via the internet, telephone or television.

3.7 In relation to premises licensing, the Council can only consider matters within the scope of the Guidance, the Gambling Act 2005 and Codes of Practice.

The Council's primary obligation under Section 153 (1) of the Gambling Act 2005 is to permit the use of premises for gambling insofar as it thinks that to do so is:

- a) In accordance with relevant codes of practice issued by the Gambling Commission;
- b) In accordance with guidance issued by the Commission;
- c) Reasonably consistent with the licensing objectives; and
- d) In accordance with the Licensing Authority Statement of Policy subject to a) to c) above:

The Guidance also emphasises that in seeking to encourage consistency across licensing areas, the Commission does not seek to fetter the discretion that authorities have under the Act to make decisions which reflect local circumstances, for example with the location of premises.

4. Current situation / proposal.

4.1 The Statement of Licensing principles has been re-drafted to reflect changes to the Fifth Edition of the Guidance published by the Gambling Commission as well as an update to the Council's proposed corporate priorities. In addition, there are minor updates to the policies relating to motorway service area premises etc at Section 3.1 and to provisional applications which are set out in Section 3.9.1.

4.2 In addition, an officer review of current premises and complaints was undertaken to establish if there were any local or area-based concerns which would merit a change of policy. Seven complaints were received in the three year period preceding the review, the majority of which related to the siting of machines in non-authorised premises, but no trends or area specific concerns have been identified. As a result, no major policy changes are proposed at this time, but the authority may review its gambling policy at any time should local circumstances change.

4.3 Social Responsibility

The Gambling Commission has reviewed the social responsibility provisions in the regulatory regime. The Commission publishes the general licence conditions and codes of practice which apply to licensed gambling operators in the document entitled *Licence conditions and codes of practice* (LCCP). In August 2014, the Commission launched a review on improving the social responsibility provisions in the LCCP. The review considered better ways of preventing and reducing gambling-related harm, and increasing player protection measures.

The majority of the new conditions came into effect in May 2015, but further provisions come into effect in April 2016. These relate to licensees being required to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures in place to mitigate those risks. The proposed amendments are set out in Section 3, Appendix A and identify the issues which the Council would expect operators to address within risk assessments.

4.4 In addition, the responses from the consultation are as follows:

4.4.1 The Campaign for Fairer Gambling (CFG) has submitted the following request for consideration.

“As part of your Council's gambling policy over the next three years, we recommend you contain a statement supporting further regulatory action against FOBTs, with greater powers of control devolved to councils. “

A Fixed Odds Betting Terminal (FOBT) is a machine sited in betting shops, which offers a variety of games, including roulette. Each machine accepts bets for amounts up to a pre-set maximum and pays out according to fixed odds on the simulated outcomes of games. The Gambling Act 2005 classified FOBTs as Category B2 gaming machines. Up to four machines can be sited on betting shop premises. The maximum stake on a single bet is £100 and the maximum prize is £500.

The CFG has proposed that the maximum stake is reduced to £2 along with other measures to mitigate problem gambling. A summary of the concerns forwarded to the Council is attached at Appendix B to this report and a full copy will be available at the meeting.

Locally, since the Act came into force in 2005, there have been two additional betting shop licences granted, one in the Brackla Street Centre in Bridgend and on Bridgend Industrial Estate bringing the total to seventeen in the County Borough. However, there have been no complaints received or concerns raised regarding the usage of these machines which would inform a local policy.

The issue of devolving additional powers or changing the stakes and prizes or the number of machines in premises is one which requires primary and secondary legislation and is therefore outside the scope of this policy. It is proposed that the subject is kept under review should there be further legislative developments or guidance issued by the Gambling Commission.

- 4.4.2 Gosschalks Solicitors submitted a response on behalf of the Association of British Bookmakers (ABB) a summary of which is attached at Appendix C. The full copy will be available at the meeting. The ABB represent some of the large national and high street betting operators represented in the County Borough.

This response raises a number of points relating to the draft statement which are dealt with in turn as follows: The relevant paragraphs are highlighted within the draft document at Appendix A.

In respect of paragraphs 2.4 and 2.4.2, the consultee advises that the policy should reflect that the location of premises and the potential risk associated with locations such as schools are matters for the operator to address within the local area risk assessment. This representation is accepted and prescriptive references to particular types of premises have been removed from paragraph 2.4.2.

The consultee advises that in respect of paragraph 2.9.1, the policy should emphasise that the authority will only impose conditions on a licence where there is clear evidence of a need to do so. This is a relevant consideration and the emphasis of the paragraph has been amended accordingly.

Paragraph 3.1 of the draft policy contains a number of suggested issues that an operator might take into consideration when compiling a risk assessment relating to gambling premises. This included considering the proximity of places of worship and benefit payment days. The consultee has made representations that neither of these issues are relevant to the licensing objectives. These representations are accepted and the relevant points have been omitted from Paragraph 3.1.

5. Effect upon Policy Framework & Procedure Rules.

- 5.1 None

6. Equality Impact Assessment

- 6.1 There are no negative equality implications.

7. Financial Implications.

7.1 There are no financial implications to the report.

8. Recommendation.

8.1 Committee is requested to note the proposed amendments to the Statement of Licensing Principles going to Council for approval.

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Background documents

Gambling Commission Guidance to licensing authorities September 2015 available from www.gamblingcommission.gov.uk

House of Commons Library Fixed Odds Betting terminals by John Woodhouse available from www.parliament.uk/commons-library