



Report of the Assistant Chief Executive (Corporate Governance)

Executive Board

Date: 17 June 2009

Subject: Review Process for the Gambling Act 2005 Statement of Licensing Policy

Electoral Wards Affected: All <input type="checkbox"/> Ward Members consulted (referred to in report)

Specific Implications For: Equality and Diversity <input type="checkbox"/> Community Cohesion <input type="checkbox"/> Narrowing the Gap <input type="checkbox"/>

Eligible for Call In

Not Eligible for Call In
(Details contained in the report)

Executive Summary

1. This report advises Members of the need to review the Gambling Act 2005 Statement of Licensing Policy and provides Members with a summary of the initial revisions made to Statement of Licensing Policy.
2. Approval of the policy is a matter reserved to Full Council. Budgetary and Policy Framework Rules require the Executive Board to consider the policy, refer the matter to Overview and Scrutiny Committee and then for it to be further considered by Executive Board before being recommended for approval. In addition Executive Board are asked to refer the matter to full Council at this stage in order that all Members can feed into the consultation process rather than simply being asked to approve a final version post-consultation.

1.0 Purpose of this report

1.1 The purpose of this report is to inform Members of the Executive Board of the on going revision of the Gambling Act 2005 Statement of Licensing Policy (“the Policy”). Members will find a summary of the proposed revisions to the policy at **Appendix 1** and a copy of the policy incorporating those revisions at **Appendix 2**.

1.2 The report informs Members of the Executive Board of the methodology and timeframe for the final approval of the revised Policy, taking into account the statutory requirements for consultation and the expressed expectations of Full Council. Officers seek authority to implement this timetable.

1.3 The report also seeks the approval of the Executive Board for

- the commencement of public consultation
- the referral of the draft Policy to the Overview and Scrutiny Committee at their meeting in November.
- the referral of the draft policy to full Council at the July meeting so that all Members can feed into the consultation process.

2.0 Background information

2.1 The Gambling Act 2005 (“the Act”) gave effect to the Government's proposals for reform of the law on gambling. The Act introduced a new regulatory system to govern the provision of all commercial gambling in Great Britain, other than the regulation of spread betting. Leeds City Council was appointed as the Licensing Authority for Leeds, a function previously held by the Magistrates Court.

2.2 Licensing objectives

2.2.1 The Licensing Authority carries out its functions of the Act with a view to promoting the three licensing objectives set out at Section 1 of the Act. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support a 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.

2.3 Role of the Licensing Authority

2.3.1 Premises providing certain types of gambling require a Premises Licence issued by the Local Authority. Within this framework, the Licensing Authority's role is to ensure that given premises are suitable for providing gambling in line with the three objectives and any Codes of Practice issued by the Gambling Commission.

2.4 Statement of Licensing Policy Consultation

- 2.4.1 Under the Act, each Licensing Authority must also prepare a “statement of principles” which outlines how the Authority will seek to promote the licensing objectives. This document fulfils a similar role to that of the Licensing Act 2003 Statement of Licensing Policy. A Policy must be published at least every three years. Leeds City Council published its existing Policy in January 2007.
- 2.4.2 The Gambling Act 2005 Statement of Licensing Policy is due to be reviewed this year for adoption by Full Council. The revised Policy must be published by January 2010. Before the Policy is published the Act requires any proposed revisions to the Policy to be consulted upon with certain statutory agencies and various other bodies, as defined in the Act. The consultation with statutory bodies forms stage one of the consultation. It is proposed that public consultation take place during August, September and October 2009. This is stage two of the consultation.
- 2.4.3 Following the review of the Licensing Act 2003 Statement of Licensing Policy, comments were made that indicated Full Council would have found it useful if there had been a debate regarding the Licensing Policy to air some issues and to assist Officers in their re-drafting of the Licensing Policy. Officers have taken on board these comments and recommend that Full Council should be given an early opportunity to see proposed revisions to the Policy prior to adoption. The proposed timetable for the approval of the final draft of the Policy reflects this.

3.0 **Main Issues.**

3.1 Budget and Policy Framework Procedure Rules

- 3.1.1 Approval of the Policy is a matter reserved to Full Council. However, the consideration of the Policy before approval must follow the Budgetary and Policy Framework Rules, which require the Policy to be considered by the Executive Board, referred to Scrutiny and Overview Committee and then be further considered by the Executive before being recommended for approval. Members of the Executive Board will note that the Policy must be published by January 2010 suggesting Full Council will need to approve the revised Policy by December 2009.
- 3.1.2 Members will note that as required by the rules, there has already been consultation with stakeholders on the proposed revisions to the policy. The results of this consultation are found at **appendix 1**. Any representations arising from this initial consultation should be taken into account by the executive in formulating and reflected in any resulting reports concerning the revisions to the policy.
- 3.1.3 Any initial comments or proposals that the Executive Board have concerning the revisions to the Policy currently proposed must be referred to the appropriate Scrutiny Board for further advice and consideration. The Scrutiny Board will then report back to Executive Board after having canvassed the views of stakeholders, Officers propose to take a report to Scrutiny at their yet to be arranged November 2009 meeting.
- 3.1.4 Officers propose to undertake the statutory public consultation after the draft policy has been considered by full Council but before the matter is considered by the Scrutiny Board.
- 3.1.5 Officers will then bring the policy back to Executive Board at their 9th December 2009 meeting, to consider the findings of Scrutiny and the public consultation and

make any appropriate amendments to those proposal before submitting the draft policy to Full Council for approval.

- 3.1.6 Full Council will then consider the draft policy and the recommendations from Executive Board. A special meeting of Full Council will need to be called to approve the final version of the Policy.

3.2 Involvement of Full Council

- 3.2.1 Full Council, when adopting the existing Policy, did not become engaged in the process until immediately before its adoption. The same process was followed when approving the recent Statement of Licensing Policy under the Licensing Act 2003. Members at that stage indicted Full Council would have found it useful if there had been an earlier debate regarding the Licensing Act 2003 Policy. Officers therefore propose that Executive Board also refer the draft policy to the meeting of full Council scheduled for July 2009 so that such a debate can take place and can feed into the policy development process.

- 3.2.2 The proposed adoption timeframe of the Policy can be summarised as follows:

- 17 June 2009 – Executive Board for initial consideration of revised draft
- 15 July 2009 – Full Council for debate and consideration
- End July 2009 – Second draft of Policy ready for start of public consultation
- August to October - Public consultation
- 31 October 2009 – Analysis of responses and final draft of Policy undertaken by Officers
- November 2009 – Overview and Scrutiny Board to consider final draft and consultation results.
- 9th December 2009-Executive Board for consideration of final draft
- December 2009 – special Full Council considers final draft for approval

3.3 Consultation

- 3.3.1 In general the Act requires that the Licensing Authority consults with:

- a. The Chief Officer of the Police
- b. One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
- c. One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act.

3.3.2 In addition to the requirements of the Act, the Secretary of State issued a further statutory instrument, The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006, which required specific information to be included in the policy.

3.3.3 The Council intends to consult widely on the reviewed Policy. The first draft has been sent to key stakeholders including:

- the Gambling Commission
- West Yorkshire Police
- West Yorkshire Fire & Rescue Service
- LCC Environmental Health Services
- LCC City Development
- Local Safeguarding Children Board
- HM Revenues and Customs
- City Development
- Leeds Initiative

as set out in Appendix 1.

3.3.4 The initial draft has now been amended to incorporate comments received from the responsible authorities. This revised draft is now before the Executive Board for further comments before commencing public consultation.

3.3.5 The public consultation will commence at the beginning of August and will run for a minimum of four weeks, as specified in the Act. The Home Office Code of Practice on Consultation specifies that a 12 week consultation is good practice. However, due to restraints imposed by the timetabling of Overview and Scrutiny Board and Executive Board, the current aim is to provide a public consultation period of 9 weeks.

3.3.6 The consultation will take the form of a single sided letter, which will detail how the Policy can be accessed. Previously, the consultation process has included a questionnaire but it is felt that this is not helpful as it directs the consultee to making specific conclusions about the policy. It is felt that leaving the commentary open will allow consultees to make their own response in a way they feel is useful to the Council. This is especially pertinent to the fact that this is a review of an existing Policy which has already undergone such a detailed and directed consultation.

3.4 Large Casino Licence

3.4.1 Members will recall that Leeds now has the ability to issue a premises licence for a large casino having successfully bid for the right. The licence will ultimately be granted to the site/operator which brings the greatest benefit to the city. The process of selecting the site and operator is a function of the Licensing Committee and not the Executive. Legislation provides that the principles which will be applied in identifying which bid brings the greatest benefit should be set out in the Statement of Licensing Policy. Members will note that the current draft policy contains no provisions on this at present. This is due to the fact that central government is still finalizing regulations on the new casinos. These will affect the nature of the bids that may be submitted. It is therefore considered appropriate to revise the policy again in 2010 to incorporate provisions relating to the licensing process for the large casino when these regulations are finalised.

4.0 Implications for council policy and governance

- 4.1 Due to the strict time frame, it will be necessary to call a meeting of Full Council in December of this year in order to approve the final Statement of Gambling Policy.
- 4.2 Approval must follow Budgetary and Policy Framework Rules as set out in the Constitution. The revised Policy must be taken into account when making decisions on applications for gambling Premises Licences and permits.

5.0 Legal and resource implications

- 5.1 At the initial implementation of the Gambling Act 2005, additional legal support, both to the Committee and Entertainment Licensing Section, was provided, and also a review of the then existing resources within the Entertainment Licensing Section was also undertaken. No further resources are therefore required.

6.0 Recommendations

- 6.1 Members are requested to:
 - 6.1.1 Note the methodology and timeframe for the adoption of the gambling policy.
 - 6.1.2 To refer the draft Policy to Full Council for Members to comment on the draft as part of the initial consultation process with stakeholders.
 - 6.1.3 Authorise the Assistant Chief Executive (Corporate Governance) to undertake public consultation as outline in the report and
 - 6.1.4 Refer the revised policy and the results of any subsequent consultations on the draft policy to Overview and Scrutiny Committee, and request that Scrutiny report back to the Executive Board on the 9th December 09.

Background Papers.

The Gambling Act 2005
The Gambling Commission's Guidance to Licensing Authorities.
The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales)
Regulations 2006