

Report of the Director of Resources

Report to Executive Board

Date: 4 January 2012

Subject: Large Casino - Approval of revised Gambling Act 2005 Statement of Licensing Policy 2010-2012

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The Gambling Act 2005 provides Leeds City Council with the opportunity to grant a Large Casino Premises Licence. Over the last year officers from Entertainment Licensing and City Development have been preparing the process and related documents. This includes a new section to be inserted in the Gambling Act 2005 Statement of Licensing Policy ("the Policy") and a full application pack.
2. The council has undertaken a public consultation on the revised Policy, and the application pack. Approval of the revised Policy is a matter reserved to Full Council. Executive Board considered the revised Policy in November and referred the matter to Scrutiny Board (Resources and Council Services). Under Budgetary and Policy Framework the comments from Scrutiny Board and the amended policy should now be considered by Executive Board before being considered for approval by full Council.

Recommendations

3. Consider the comments made by Scrutiny Board (Resources and Council Services) on the revised Gambling Act 2005 Statement of Licensing Policy 2010-2012 and the consultation report as the council's response to the public consultation; and,
4. Refer both documents to Council for approval.

1.0 Purpose of this report

- 1.1 To present the comments from Scrutiny Board (Resources and Council Services) on the revised Gambling Act 2005 Statement of Licensing Policy which contains a statement of the principles the council will apply when making the determination of the large casino licence (background papers).
- 1.2 To present the comments from Scrutiny Board (Resources and Council Services) on the Consultation Report (background papers) which is the proposed Council response to the public consultation on the large casino section in the Policy, and the draft application pack.

2.0 Background information

- 2.1 The Gambling Act 2005 (the Act) changed the legislation governing the licensing of casinos significantly. Under the Act seventeen new casino licences were to be granted, each of which are to be significantly larger than existing casinos. The DCMS formed a special Casino Advisory Panel (CAP) to recommend where the new casinos should be located.
- 2.2 In April 2008 Parliament approved the eight small and eight large casinos in line with the CAPs original recommendations. Leeds was awarded the right to issue a large casino licence.
- 2.3 The Act, associated regulations and a Code of Practice describe the process the council and the applicant must complete before issuing a large casino licence. This includes:
 - Updating the Statement of Licensing Policy to include a statement of the principles the council will apply when determining the casino applications.
 - Development of an application pack which describes the procedure the council proposes to follow and the principles that will be applied when determining the licence.
 - Commencement of the application process with an advertisement of the “competition” and a two stage application process:
 - Stage 1 follows the same process as for any other premises licence application under the Act.
 - Stage 2 in which the council’s Licensing Committee determines which of the competing applications would provide the greatest benefit to the area.
- 2.4 The approval of the revised Policy is a matter reserved for full Council and follows the Budgetary and Policy Framework.
- 2.5 The approval of the application pack is a matter for the Licensing Committee. The draft application pack is available as background papers.
- 2.6 Providing the policy receives approval by Council and the application pack approval by Licensing Committee in January, it is intended that Stage 1 of the competition will commence in February and complete at the end of June 2012. If there are no

appeals, Stage 2 will commence at the end of July and it is planned to complete the process and grant the licence within the 2012/13 financial year.

3.0 Main issues

Scrutiny Board Comments

3.1 Executive Board referred the revised Statement of Licensing Policy and the consultation report to Scrutiny Board (Resources and Council Services) on the 7th November. Scrutiny Board concluded:

3.1.1 That the Executive Board be advised that this Scrutiny Board recommends that Executive Board and full Council should be confident that there are clear economic benefits in having a large casino and that these benefits are not outweighed by any negative social/economic impacts.

3.1.2 That the Executive Board and full Council note the recommendation made by NHS Leeds during the consultation exercise.

Socio-Economic Impact

3.2 It is expected that as Leeds is the only core city with the ability to grant a casino licence, the licence could bring a major boost to the leisure, visitor and night time economies. This in turn will bring jobs and investment to the city.

3.3 In relation to 3.1.1 Executive Board is advised that during the second stage of the application process, applicants are required to provide extensive documentation describing the benefits their proposal will bring to the Leeds area.

3.4 These benefits will be evaluated under the criteria of financial, socio-economic and deliverability. The determination of the licence will be decided on the evaluation of this information.

3.5 Should the council feel that the proposals put forward do not meet their expectations full Council can pass a no casino resolution. This is described at paragraph 16.53 of the Statement of Licensing Policy:

16.14 The council has not passed a “no casino” resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. It may choose to exercise this option should there be only one application for a large casino premises licence or should, where there is more than one application, those applications fail to meet the council’s aspirations for benefit for the Leeds metropolitan area. Should the council decide in the future to pass such a resolution, it will update this policy with details of that resolution and any such decision will be made by full Council.

3.6 In relation to negative social/economic impacts, applicants are required to provide a strategy setting out:

^w An assessment of diversity issues for the chosen location including identification and assessment of potential positive and negative impacts of establishing the casino (and wider developments where applicable) at this location.

- w Any mitigating factors to reduce the negative impact of the development at their chosen location.
- w Approach to how measures/mitigations of negative impacts will address the requirements outlined in the policy and the Code of Practice.
- w Management arrangements to address social and equality issues including monitoring of mitigation of potential adverse effects of the development
- w Key areas of where cooperation could take place, specifying the nature of activities/programmes, partners to be involved, the role expected of the council.
- w The form that this cooperation would take (e.g. funding/sponsorship, staff time/benefits in kind, development, management/administrative support, facilities, etc).
- w Who will be responsible for the costs of mitigation.
- w Any constraints or dependencies (e.g. support and input from the council or other organisations).

3.7 In addition, where applicants already have an Operating Licence they are required to identify where the actions set out in their strategy are additional to those already required under the DCMS Code of Practice, which are at the discretion of the applicant and which will form part of the Schedule 9 Agreement to be signed with the council.

3.8 In order to support this the Statement of Licensing Policy states:

16.49 Applicants must demonstrate a firm commitment to mitigation of negative impacts and ensuring residents' safety and health is not put at risk by the large casino. In particular, attention should be focussed on mitigation for the most vulnerable in society and for those living closest to the proposed casino and applicants must ensure that problem gambling issues do not increase in the Leeds area. Applicants must provide an assessment of the social, equality and health impacts of their proposed casino developments and provide mitigation plans to minimise and eliminate negative impacts. Applicants should also commit to supporting the ongoing monitoring of negative social, equality and health impacts of the large casino and make contractual commitments in the schedule 9 agreement on all mitigation measures proposed.

NHS Leeds Recommendations

- 3.9 With regard to point 3.1.2, the consultation response considered the recommendations made by NHS Leeds, and incorporated them into the application pack as follows:
- 3.10 NHS Leeds specifically raised the concern that the policy does not acknowledge the potential negative impact that a large casino development could have. Their comprehensive response describes the potential health impacts associated with gambling, problem gambling and casinos.
- 3.11 The licensing process is undertaken in two stages. Stage 1 is the same regulatory process undertaken by all premises licence applicants. Stage 2, as dictated by legislation, is an assessment of which application would, if granted, provide the greatest benefit to the local authority area. Therefore, the Statement of Licensing

Policy and Stage 2 Application Pack have been developed to evaluate the benefits that will arise from the casino process rather than look at the mitigation of harm.

3.12 However, the Stage 2 evaluation considers negative effects in a number of ways:

- w Applicants must provide a comprehensive equality and health impact assessment and provide mitigation. Contractual commitments will be sought on mitigation measures. The commitment to mitigation is present throughout the evaluation.
- w The social inclusion fund will help mitigate negative affects generally and is worth 33% of the overall evaluation scoring.

3.13 During the stage 2 evaluation process, a number of criteria are considered including:

- w health impacts
- w strategies and safeguards to negative impacts.
- w employment and skills strategies
- w details on how the most disadvantaged could benefit from their proposal
- w job ring-fencing proposals

3.14 These are considered under the socio-economic criteria, whilst commitments on mitigation are required in the schedule 9 agreement (risk and deliverability). Contractual commitments will be sought to ensure that any strategies promised by applicants are delivered.

3.15 The large casino licence operator will fund a Social Inclusion Fund which will support projects that help the financial and economic inclusion agenda (which will include work on health). It is anticipated that some aspects of the Social Inclusion Fund will be used to mitigate social costs brought about by the casino, above and beyond the commitments from operators and may be used to fund such activities away from the boundary of the casino..

3.16 In addition, the social impact of the casino will be monitored through research using a toolkit developed by leading academics. This will be used to ensure the impact of the casino on the local area will be closely scrutinised independently of the licensed operator. The council is already working on this with leading academics and the other 15 authorities who will grant new casino licences.

3.17 Before a premises licence can be granted, which is required before the casino can open, the operators must have an operating licence - a highly regulated licence that requires commitments to mitigating negative effects. More information on the requirements of an operators licence can be obtained from www.gamblingcommission.gov.uk.

3.18 The policy was amended to include the following additional paragraph:

16.49 The applicants must demonstrate a firm commitment to mitigation of negative impacts and ensuring residents' safety and health is not put at risk by the large casino. In particular, attention should be focussed on mitigation for the most

vulnerable in society and for those living closest to the proposed casino and applicants must ensure that problem gambling issues do not increase in the Leeds area. Applicants must provide an assessment of the social, equality and health impacts of their proposed casino developments and provide mitigation plans to minimise and eliminate negative impacts. Applicants should also commit to supporting the ongoing monitoring of negative social, equality and health impacts of the large casino and make contractual commitments in the schedule 9 agreement on all mitigation measures proposed.

- 3.19 In addition officers from City Development met with NHS Leeds to discuss their specific concerns relating to the issuing of a large casino licence and as a result of that meeting it is hoped that NHS Leeds will be able to provide expert advice on health mitigation during the evaluation process.
- 3.21 Since the Policy was presented to Scrutiny Board, officers have made one amendment to paragraph 16.43, replacing the word signature with completion.
- 3.22 The Statement of Licensing Policy and the full Consultation Report are provided as background papers and available from the author of the report. Both documents have been circulated to the Executive Board.

4.0 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 The large casino section of the Policy underwent a public consultation which ran from 9th May to 29th July 2011. The consultation was advertised through Talking Point and with posters placed in public spaces such as libraries, one stop shops and leisure centres. A press release was produced, and the consultation was advertised on the council's website. The consultation was advertised by letter directly to 457 people and organisations. The consultation response is provided in the Background Papers.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 The Gambling Act 2005 has three licensing objectives:
- a) preventing gambling from 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) protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 4.2.2 The licensing authority, in exercising their functions under the Act, shall aim to permit the use of premises for gambling in so far as it thinks its reasonably consistent with the licensing objectives.
- 4.2.3 Therefore the council has produced the revised Policy with this in mind and has taken special consideration of the protection of children and vulnerable people.

4.3 Council Policies and City Priorities

4.3.1 The revised Policy sets out the principles the council will use to exercise its functions under the Gambling Act 2005. Applicants for the large casino are expected to read the Policy before making their application and the council will refer to the Policy when making its decisions.

4.3.2 The licensing regime contributes to the following aims:

By 2030, Leeds will be fair, open and welcoming

- Local people have the power to make decisions that affect them
- There is a culture of responsibility, respect for each other and the environment
- Our services meet the diverse needs of our changing population
- Everyone is proud to live and work

By 2030, Leeds' economy will be prosperous and sustainable

- Opportunities to work with secure, flexible employment and good wages

By 2030, all Leeds' communities will be successful

- Communities are safe and people feel safe

4.3.3 The licensing regime contributes to the following city priorities:

Best city... for communities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.4 Resources and Value for Money

4.4.1 Legal Services has provided advice at each stage of the policy development. They have also provided advice during the composition of the consultation report and the development of the application pack.

4.4.2 The large casino provides the council with the opportunity to secure benefits for the city. Although the development of the revised Policy and application pack, as well as the upcoming application process has had a cost associated with it, the project is being delivered within the budget approved at Executive Board on 3rd March 2010.

4.5 Legal Implications, Access to Information and Call In

4.5.1 The development of a Policy under the Gambling Act 2005 is a matter for full Council and follows the Budgetary and Policy Framework which requires that Executive Board refers this matter to Scrutiny Board (Resources and Council Services) and then for it to be further considered by Executive Board before being recommended to full Council for approval. As such this report is exempt from call in by Scrutiny.

4.5.2 The revised Policy and the associated documents (i.e. the application pack and the consultation document), have received internal legal assurance from Legal Services and external legal assurance from Counsel.

4.5.3 The only recourse for applicants is appeal to the Magistrates Court at the end of Stage 1 and Judicial Review of the decision made at the end of Stage 2. Therefore, the revised Policy, application pack, public consultation and the consultation report have been developed with transparency and fairness as a prime consideration.

4.6 Risk Management

4.6.1 Executive Board has the option of not referring the revised Policy to full Council at this time, and requesting that further work is undertaken. This would impact on the project timescales and may incur additional costs for the council.

5 Conclusions

5.1 A revised Gambling Act 2005 Statement of Licensing Policy has been developed to include a section on the large casino in accordance with the DCMS Code of Practice and the Gambling Act 2005. The revised Policy describes the principles the council will use when determining a large casino licence, particularly at stage two of the process where the test is which application would provide the greatest benefit to the city. The council has consulted with the public in accordance with the legislation and HM Government Code of Practice on Consultations. The responses to the consultation, plus suggested amendments are attached in the Consultation Report.

5.2 The revised Policy is now following the Budgetary and Policy Framework. The next step is for Executive Board to consider the recommendations made by Scrutiny (Resources and Council Services) and to refer the matter to full Council for approval.

6 Recommendations

6.1 That Executive Board members are asked to:

6.1.1 Consider the comments made by Scrutiny Board (Resources and Council Services) on the revised Gambling Act 2005 Statement of Licensing Policy 2010-2012 and the consultation report as the council's response to the public consultation; and,

6.1.2 Refer both documents to Council for approval.

7 Background documents (available from the report author)

7.1 Revised Gambling Act 2005 Statement of Licensing Policy 2010-2012

7.2 Consultation Report - Large Casino Section - Gambling Act 2005 Statement of Licensing Policy

7.3 Gambling Act 2005 Statement of Licensing Policy 2010-2012 (as currently published)

- 7.4 Insert into the Gambling Act 2005 Statement of Licensing Policy - This report accompanied the public consultation. It explains the background to the legislation, and how the draft policy was developed.
- 7.5 Equality, Diversity, Community Cohesion Impact Screening (October 2011)
- 7.6 Draft Application Pack