



LICENSING COMMITTEE

**MEETING TO BE HELD IN CIVIC HALL, LEEDS ON
TUESDAY, 3RD APRIL, 2007 AT 10.00 AM**

MEMBERSHIP

Councillors

S Armitage	-	Crossgates and Whinmoor
A Castle	-	Harewood
R Downes	-	Otley and Yeadon
J Dowson	-	Chapel Allerton
J Dunn	-	Ardsley and Robin Hood
R D Feldman	-	Alwoodley
T Grayshon	-	Morley South
D Hollingsworth	-	Burmantofts and Richmond Hill
G Hyde	-	Killingbeck and Seacroft
V Morgan	-	Killingbeck and Seacroft
F Robinson	-	Calverley and Farsley
B Selby	-	Killingbeck and Seacroft
C Townsley	-	Horsforth
G Wilkinson	-	Wetherby
D Wilson (Chair)	-	Rothwell

A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p>	
2			<p>EXCLUSION OF PUBLIC</p> <p>To identify items where resolutions may be moved to exclude the public</p>	
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p>DECLARATIONS OF INTEREST</p> <p>To declare any personal/prejudicial interests for the purpose of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 13 of the Members Code of Conduct</p>	
5			<p>APOLOGIES FOR ABSENCE</p>	
6			<p>MINUTES</p> <p>To approve as a correct record the minutes of the following meetings :</p> <ul style="list-style-type: none"> a) 6th February 2007 b) 7th February 2007 c) 7th March 2007 <p>(Copies attached)</p>	1 - 12

Item No	Ward/Equal Opportunities	Item Not Open		Page No
7	All Wards		<p>LICENSING PROCEDURE RULES</p> <p>To consider the report of the Director of Legal and Democratic Services advising members of regulation issued by the Secretary of State in relation to the hearings which will be required under the terms of the Gambling Act 2005</p> <p>(Report attached)</p>	13 - 16
8	All Wards		<p>THE GAMBLING ACT 2005 - FEES</p> <p>To consider the report of the Director of Legal and Democratic Services on the regulations now laid setting the band fees for premises licences under the Gambling Act 2005</p> <p>(Report attached)</p>	17 - 20
9	All Wards		<p>THE GAMBLING ACT 2005 - STATEMENT OF PRINCIPLES FOR PERMITS</p> <p>To consider the report of the Director of Legal and Democratic Services advising Members on the completed consultation exercise undertaken with regard to the Statement of Principles for Permits. A copy of the Draft Statement is attached for consideration</p> <p>(Report attached)</p>	21 - 30
10	All Wards		<p>LEEDS LARGE CASINO DEVELOPMENT AND RELATED AMENDMENTS TO THE COUNCIL'S "THE GAMBLING ACT 2005 - STATEMENT OF LICENSING POLICY"</p> <p>To consider the report of the Director of Legal and Democratic Services seeking Members consideration of the work being undertaken by the Entertainment Licensing Section to revise Part F of the Council's own "Gambling Act 2005 - Statement of Licensing Policy"</p> <p>(Report attached)</p>	31 - 60

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Agenda Item 6

Licensing Committee

Tuesday, 6th February, 2007

PRESENT: Councillor D Wilson in the Chair

Councillors A Castle, R Downes, J Dunn,
G Hyde, V Morgan and F Robinson

46 Declarations of Interest

There were no declarations of interest

47 Apologies for Absence

Apologies for absence were received from Councillors Dowson, R D Feldman and Townsley

48 Minutes

RESOLVED – That the minutes of the following meetings be agreed as a correct record

(a) 21st November 2006

(b) 5th December 2006

49 Licensing Committee Terms of Reference and Delegation of Functions

The Director of Legal and Democratic Services submitted a report setting out amendments to the Terms of Reference of the Licensing Committee in relation to the Gambling Act 2005. The amendments were approved by full Council on 17th January 2007.

The report also included proposals for the delegation of certain functions to the Licensing Sub Committees and Officers. Members considered the merits of delegating Reviews of Premises Licences under the 2003 Act as well as Reviews of Licences under the 2005 Act to the Sub Committees. Having regard to the serious nature of a Review, Members were minded to delegate Reviews on the proviso that listing of applications took account of the length of review hearings and where possible no other business be conducted by the Sub Committee in addition to the review.

RESOLVED –

(a) That the Committee delegate the power to Review a licence under the terms of the Gambling Act 2005 to the Sub Committees

(b) That the Committee delegate the power to Review a Premise Licence under the terms of the Licensing Act 2003 to the Sub Committees

(c) That the revised Terms of Reference for the full Licensing Committee and its' Sub Committees as contained in appendix 2 of the submitted report be approved

(d) That the revised Officer Delegation Scheme as contained in appendix 3 of the submitted report be approved

(e) That the Director of Legal and Democratic Services be authorised to implement the decisions at (a) to (d) above by amendment to the relevant Terms of Reference and Officer Delegation Scheme.

50 Licensing Act 2003 - Update

The Committee considered the report of the Director of Legal and Democratic Services providing an update on the implementation of the Licensing Act 2003, including the number and category of licence application made to the Licensing Authority

It was noted that Leeds North West Area Committee was currently collecting evidence regarding the proliferation and activities of late night take-aways with a view to seeking an expansion of the terms of the existing Headingley Cumulative Impact Policy to include such premises. Members noted that a report would be presented in due course.

The report referred to Reviews undertaken so far by the Committee and it was reported that the appeal against the decision concerning the Birdcage premises was ongoing, as the premises had pursued a Judicial Review of the actions taken by West Yorkshire Police leading up the instigation of the Review

RESOLVED – That the contents of the report be noted

51 Gambling Act 2005 and Licensing Act 2003 - Protection of Children from Harm

The Director of Legal and Democratic Services submitted a report outlining a delegated decision required under the Gambling Act 2005 in order to appoint an advisory body to the Licensing Authority on matters relating to the protection of children from harm.

The report set out a proposal to formally approach the Local Safeguarding Children Board and officers also sought approval to for the Board to advise the Authority on matters pertaining to the Licensing Act 2003

RESOLVED – That officers be authorised to formally approach the Local Safeguarding Children Board to approve the Board as a responsible authority under both the Licensing Act 2003 and the Gambling Act 2005

52 Gambling Act 2005 - Statement of Principles for Permits

The Director of Legal and Democratic Services submitted a report advising Members of the Draft Statement of Principles of the issuing of Unlicensed Family Entertainment Centre Permits (such as motorway service stations) and Prize Gaming Permits.

A copy of the Draft Statement was attached to the report

RESOLVED – That the contents of the report and the Draft Statement of Principles be noted

53 Gambling Act - Predictions

The Committee considered the report of the Director of Legal and Democratic Services on the predicted numbers and categories of premises which will require licensing under the terms of the Gambling Act 2005

It was noted that the transitional period timetable for implementation had altered as follows:

- January 2007 – applications from existing providers to be made to the Gambling Commission
- 21 May 2007 – applications from existing providers to commence to the Licensing Authority
- 30 July 2007 – end of transitional period for receipt of applications to the Licensing Authority
- September 2007– applications for new premises/from new providers to commence

The Committee discussed the “fast track” and “standard route” application process and the relevance of planning, economic and social issues to the consideration of applications.

With regard to the recent government decision to award Leeds with one “large casino” under the terms of the Gambling Act 2005, officers outlined the two stage procedure involved in the selection of the preferred provider. It was noted that officers would present a report on the process once the relevant government Regulations and Guidance had been published

RESOLVED – That the contents of the report be noted

54 Sports Cafe Group Ltd - Appeal Against Licensing Committee Decision on Review

The Director of Legal and Democratic Services submitted a report on the outcome of an appeal against the decision of the Licensing Committee made at a Review hearing held in June 2006 regarding the Sports Café, The Headrow Leeds 1.

The Committee noted the comments of the legal officer concerning the phrasing of the decision bearing in mind the Magistrates had resolved to lift the two week suspension imposed at the Review.

RESOLVED –

- a) That the contents of the report be noted
- b) That officers be authorised to redraft the template of the officers report presented at Review Hearings

**55 Any Other Business
The Gambling Act 2005 –**

Site Visit - the committee noted the intention to undertake fact finding site visits to existing casinos prior to the commencement of hearings under the terms of the Gambling Act 2005

Rules of Procedure – It was anticipated that Rules of Procedure for hearings under the terms of the Gambling Act 2005 would be released in April 2007

Entertainment Licensing – The committee were pleased to note that some of the temporary staff employed to deal with the Licensing Act 2003 were now in permanent posts in order to deal with the Gambling Act 200

The Licensing Act 2003. – Councillor Wilson commented that he was sure the Committee would adopt the same common sense approach to the Gambling

Act 2005 and he had been pleased to note that Leeds had never been the focus of media attention as a “problematic” city. He further reported that Superintendent Nicholson, WYP had confirmed that the situation within Leeds city centre had generally improved through the use of dispersal policies

Licensing Committee

Wednesday, 7th February, 2007

PRESENT: Councillor D Wilson in the Chair

Councillors R Downes, R D Feldman,
V Morgan, G Wilkinson and F Robinson

56 Review of a Premises Licence - "My House", (formerly Peep House) 76 York Street, Leeds LS9 8AA

The Committee met to consider a Review of the Premises Licence currently held at the premises known as "My House" (formerly Peephouse), 76 York Street, Leeds LS9. The Review had been necessitated following application made by Leeds City Council Environmental Health Services under Section 51 of the Licensing Act 2003 having regard to licensing objective to promote the prevention of public nuisance.

There were no declarations of interest.

Just prior to the substantive hearing the Committee dealt with a formal application relating to the hearing and evidence to be laid before it:

Additional Representation from West Yorkshire Police

Following the despatch of the Notice for the hearing West Yorkshire Police requested that an additional piece of information, which they regarded as a relevant representation, be laid before the Committee. This related to measures proposed by WYP in order to promote the objective to prevent crime and disorder – these proposed measures had previously been agreed by the Premise Licence Holder on a voluntary basis but did not currently form part of the Premise Licence.

The Committee permitted a report containing a copy of the conditions and a précis of two specific incidents of disorder at the premises to be tabled at the hearing.

DECISION - The Committee noted that the parties had accepted these documents, and the Committee therefore accepted the submissions as evidence to be considered at the hearing.

The Committee considered the Licensing Officers Report which contained a copy of the application as made by LCC EHS and supporting evidence which included several witness statements supplied by officers from LCC EHS. Statements from local residents collected by LCC EHS were also included. It was noted that some of the witness statements were regarded as confidential and were not available to the general public as they contained details relating to local residents who had made complaint, however the statements were referred to during verbal submissions.

The Committee considered the verbal submissions from Mr Mike Bird – Senior Technical Officer, Environmental Health Services – on behalf of LCC EHS. He was accompanied by Mr Roger Halliwell, Environmental Health Officer.

The Committee noted that Mr Bob Patterson, Licensing Officer and PC Cath Arkle of West Yorkshire Police (WYP) were in attendance as observers.

The Committee also considered the verbal submissions of Mr Jason Fenning of CJ Property & Leisure Ltd – the owners of “My House”. Mr Kevan Dodson, the Premise Licence Holder of “My House” was in attendance.

In brief, LCC EHS presented a case that noise outbreak from this premise had caused unreasonable levels of disturbance to local residents for some time. In November 2005 when the new style Premises Licence had been issued under the Licensing Act 2003, conditions had been attached to the Licence to address this. However EHS had continued to receive complaints and in February 2006 had issued a Noise Abatement Notice. In October 2006 further complaints were received and noise was measured in the complainants dwelling. The Premise Licence Holder had been reminded of the extant Noise Abatement Notice, and the conditions of the Licence. LCC EHS contended that due to the continued and substantiated noise breakout, this particular building was not suitable for use as a nightclub as the fabric of the building could not contain the noise. Additionally, EHS were concerned that the Premises Licence Holder and Company behind “My House” were either unwilling to address the continuing problem or unable to. LCC EHS were of the opinion that noise from the premises presented an ongoing public nuisance and it was under these terms that the application for Review was made.

The Committee reviewed the Licence and took into account the written submissions contained within the Licensing Officers report plus the verbal submissions made at the hearing by all parties.

The Committee were satisfied with the evidence presented that noise had been emanating from the premises which had caused unreasonable levels of disturbance to a local resident. The Committee felt that the recurrent noise emissions from the premises, despite warnings from LCC EHS, did undermine the licensing objective adopted by the Licensing Authority in order to prevent incidents of public nuisance

The Committee, whilst acknowledging the measures undertaken in the past by the PLH as well as the offered measures, concluded that further action was needed to address this problem.

RESOLVED -

The Committee resolved to require the following action to be taken:

1. The blocking up of the four windows facing York Street as offered by the premises licence holder;
2. The double glazing of the complainant's flat subject to the permission of the landlord as offered by the PLH;
3. Set the limiter in accordance with the existing premises licence in conjunction with EH.

If by the 4th May 2007 EHS are able to confirm that the required steps have been taken and the problems solved then no further action shall be taken under the review. If they are not able to confirm this then the hearing of the review shall be reconvened on the first available date after 4th May 2007.

The conditions previously agreed with the police were incorporated into the Premises Licence as follows:

- Adopt the Check 21 proof of age scheme in accordance with guidance issued by WYP
- Participate in a local pubwatch scheme or licensing association (where one exists) that is recognised by WYP. (WYP are aware that the premises is a member of the LCLA voluntarily but requested this be included as a condition of the Licence)
- Participate in a radio of other communications system in accordance with guidance issued by WYP and the service provider instructions. (this condition to be substituted for condition 88 of the embedded terms and conditions in respect of the Public Entertainment Licence section of the premises Licence)
- Implement a dispersal policy agreed with WYP (Monday to Thursday the sale of alcohol is shown on the premises as ceasing at the same time as the premises closes) This may include the halt on the sale of alcohol up to one hour before close of business (depending on capacity) It may also include a restriction of entry beyond a specific hour. Where appropriate, change the music to a relaxed mood, occasional public address encouraging the sale of soft drinks, water and promoting transport options. Agree protocols and call priorities with local taxi firms. Ensure transport options are suitably advertised at the venue and staff are aware
- In relation to the CCTV system condition of the premises licence – the system will be operational at all times of licensed activities. This includes the agreement that any footage will be stored securely for a minimum of 31 days and made available to a police officer on request.

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Licensing Committee

Wednesday, 7th March, 2007

PRESENT: Councillor D Wilson in the Chair

Councillors A Castle, R Downes,
R D Feldman, V Morgan and F Robinson

57 Review of a Premises Licence - "Nu Bar", 44 - 48 The Headrow, Leeds LS1 8EQ

The Committee considered a Review of the Premises Licence currently held at the premises known as "Nu Bar" (formerly known as "If Bar" and "Life Bar"), 44 – 48 The Headrow, Leeds LS1 8EQ. The Review had been necessitated following application made by West Yorkshire Police under Section 51 of the Licensing Act 2003 having regard to all four licensing objectives for the City adopted in order to promote the prevention of crime and disorder, the prevention of public nuisance, promotion of public safety and the protection of children of harm.

There were no declarations of interest made.

The Committee considered the Licensing Officers Report which contained a copy of the application as made by West Yorkshire Police (WYP) and supporting evidence which included several witness statements supplied by WYP officers and West Yorkshire Trading Standards. (WYTS). The Committee also considered the written submissions from the Premise Licence Holder (PLH) .

The Committee considered the verbal submissions from Mr Ian Mullarkey – Counsel for WYP. Mr Mullarkey was accompanied by the following:

Sgt Robert Fullilove, the applicant on behalf of WYP

Miss Alison Walker – solicitor from the Officer of the Force Solicitor, WYP

PC Cath Arkle – Operations and Licensing Department, WYP

Mr Bob Patterson – Operations and Licensing, WYP

The Committee also considered the verbal submissions of Mr Jonathan Smith – Solicitor for Candu Entertainment Ltd - the Premise Licence Holder. Mr Smith was accompanied by

Mr Ray Cotgrave – Designated Premises Supervisor, Nu Bar

Mr Tim Roberts – Managing Director, Candu Entertainment Ltd

Mr Nigel Blair – Area Manager, Candu Entertainment Ltd

Mr Craig Smith – Managing Director of Covert Management Solutions Ltd

Mr Gordon McLean – Director, Bridgegate Security, doorstaff suppliers

Mr Richard Mc Lean – member of bar staff, Nu Bar

In brief, WYP presented a case that the Nu Bar had failed three joint police and/or Trading Standards under-age alcohol test purchases in the twelve month period November 2005 to November 2006.

WYP had established that a large proportion of persons reporting to local hospital casualty units, particularly during evenings and on a weekend, were juvenile victims of assault and accident and/or suffering from alcohol related issues. WYP felt there were far too many venues in the City Centre where persons under the age of 18 could purchase alcohol and it was the opinion of the police that drunken teenagers could not cope with as much alcohol as adults and often became the unwilling victims of crime and disorder.

WYP in conjunction with WYTS had undertaken test purchases at the premises whereby juvenile volunteers attempted to gain entry to premise and then purchase alcohol at the bar.

The three failed test purchases satisfied criteria set by WYP to seek a Review. In addition to this WYP had reservations about the management team at the premises with regards to their attitude towards the "Check 21" scheme. Concern was also raised with regards to the behaviour of door staff at the premises. It was under these terms that the application for Review was made.

The Committee reviewed the Licence and considered the verbal and written evidence as submitted by all parties.

The Committee was satisfied with the evidence presented that persons under the age of 18 had been able to gain entry to the premises and purchase alcohol at the bar. The Committee was satisfied that adherence to the Check 21 policy operated by the premises and implemented by its staff had not been managed successfully which had resulted in young persons being able to access the bar.

The Committee felt that the recurrence of successful test purchases undertaken at Nu Bar both in joint operations by WYP and WY Trading Standards and those voluntarily undertaken by the PLH showed that the sale of alcohol and access to the premises by persons under the age of 18 in particular did undermine the licensing objectives adopted by the Licensing Authority in order to prevent incidents of public nuisance, prevention of crime and disorder and in particular the protection of children from harm.

The Committee whilst acknowledging the measures undertaken previously by the PLH to address the concerns raised by WYP and the closer working partnership which had been established. concluded that action was needed to address the problems

RESOLVED -

The Committee resolved not to revoke or suspend the Premises Licence, but to add the following conditions which were felt to be necessary, reasonable and proportionate in this instance:

1. For Thursday to Saturday there shall be a minimum of one doorstaff on duty between 5 pm and 9 pm. There should be suitable cover for any occasions when the doorperson has to leave the door, which must never be left unattended. there should be a minimum of 3 doorstaff between 9 pm and 10 pm and 5 doorstaff between 10 pm and 4 am. If there is a special event or promotion between Sunday and Wednesday there must be a minimum of 2 doorstaff.

2. Any secondary points of access should be staffed by SIA doorstaff in numbers to be agreed with WYP.
3. That the training introduced by the company should be continued in respect of all new employees and refresher training to continue. A training record should be signed to show what training has been given to employees.
4. Test purchases provided by the company should be carried out on at least 2 occasions over the next 6 months and the results provided to WYP.
5. The fire door on the Headrow is to be alarmed within 28 days.

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Originator: Gill Marshall

Tel: 24 78822

Report of the Director of Legal and Democratic Services

Licensing Committee

Date: 3 April 2007

Subject: Licensing Procedure Rules

Electoral Wards Affected:

All

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. This report advises Members of regulations issued by the Secretary of State in relation to hearings required under the Gambling Act 2005. It discusses whether the provisions of the new regulations can be incorporated into the existing Procedure Rules which apply to Licensing Committee and concludes that they cannot. It then considers whether two full sets of rules should be drafted in relation to gambling and licensing functions but recommends instead that a revised set of Rules be approved which cross refer to the two sets of regulations without setting out the full provisions of either.

1.0 Purpose Of This Report

- 1.1 To put forward for Members' consideration, revised draft procedure rules relating to hearings and other meetings of the Licensing Committee and Sub Committees and to seek the approval of Members to the adoption of these to govern committee procedure under the Licensing Act 2003 ('The 2003 Act') and the Gambling Act 2005 ('The 2005 Act').

2.0 Background Information

- 2.1 Under the Licensing Act 2003 Leeds City Council was appointed as the licensing authority for the Leeds district. With the exception of certain functions (most notably the development of a licensing policy), the Act referred all matters relating to the discharge of licensing functions to a licensing committee, which had to be created and which must discharge those functions on behalf of the authority.

- 2.2 Section 9 (2) of the 2003 Act provides that the Secretary of State may issue regulations governing

- The proceedings of licensing committees and their subcommittees (including provision about the validity of proceedings and the quorum for meetings)
- Public access to the meetings of those committees and subcommittees
- The publicity to be given to those meetings
- The agendas and records to be produced in respect of those meetings
- Public access to such agendas and records and other information about those meetings

Subject to the regulations, each licensing committee may regulate its own procedure and that of its sub committees.

- 2.3 On 12 January 2005 the Secretary of State issued regulations under Section 9 (2) of the 2003 Act¹ in respect of licensing matters, although these only apply to the procedure to be followed in respect of hearings as defined in column 1 of schedule 1 to the Regulations. Effectively this relates to the normal business of Licensing Sub Committees such as determining applications for premises licences, variations and transfers of licences and reviews.

- 2.4 On 2 March 2005 the Licensing Committee approved two sets of procedure rules under the 2003 Act and the associated regulations. The first set of rules were referred to as the Licensing Committee General Procedure Rules and the second as the Licensing Committee Hearings Procedure Rules. The second set mirrored the Regulations issued by the Secretary of State referred to in paragraph 2.3 above.

- 2.5 Under the Gambling Act 2005 the functions of the council as licensing authority for gambling are also automatically referred to the Licensing Committee created under the 2003 Act. Section 154(5) of the 2005 Act ensures that the provisions of section 9 of the 2003 Act apply to the proceedings of Licensing Committee and Sub Committees when exercising functions under part 8 of the 2003 Act (premises licensing). The Secretary of State can therefore use this provision to make regulations that may apply to both licensing and gambling functions, or she may make separate regulations for each Act.

¹ Licensing Act 2003 (Hearings) Regulations 2005 SI 2005/44
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2.6 On 27 January 2007 the Secretary of State issued regulations in respect of premises licensing under the 2005 Act². These regulations apply only to the exercise of functions in respect of premises licensing and provisional statements under the 2005 Act. Therefore there are two separate sets of regulations which apply to the conduct of licensing Committee and Sub Committees dependant upon which functions are being exercised.

3.0 Main Issues

3.1 Officers would normally recommend that the regulations made under the 2005 Act be incorporated into the existing rules so that the Licensing Committee is dealing with one set of rules (dependant on whether it is conducting a hearing or a general meeting). However the differences between the two sets of regulations are so significant that officers have been unable to draft rules which incorporate both sets of regulations. For example in licensing hearings there is no general right to call witnesses (although the permission of the Committee to do so can be sought) whereas in gambling there is a general right for the parties to call witnesses.

3.2 Officers have also considered whether it would be possible to produce two sets of procedure rules which apply to the separate functions under the 2003 and 2005 Acts respectively. However this would produce two long and complicated sets of rules which would simply repeat sections of the regulations.

3.3 Officers therefore recommend that the existing rules be replaced with one set of Licensing Committee Procedure Rules, which apply to both the 2003 Act and the 2005 Act and which cross refer to the relevant regulations. Members will find attached as **Appendix 1** to this report the proposed revised set of procedure rules. Members will note that as a result the rules are considerably shorter and simpler than before.

3.4 However it will be necessary for Members, Officers and the public to be aware of the different rules and how they apply to the matters currently before the committee. Officers therefore intend to create an information sheet which will set out the corresponding provisions in relation to both licensing and gambling in relation to key issues such as time limits, right to call witnesses, right to question other parties etc. This guide could then be sent out to the parties and be available at hearings for Members and the Public.

3.5 Members may also consider that it would be best to schedule hearings in such a manner that licensing and gambling agenda items are kept separated on the agenda. This could be achieved by having separate meetings or by simply splitting the agenda.

4.0 Implications For Council Policy And Governance

4.1 The Licensing Committee must operate within the relevant statutory provisions to ensure that it's decisions are valid and can withstand challenge

5.0 Legal And Resource Implications

5.1 Failure to amend the rules to reflect the changes for the 2005 Act might render decisions susceptible to challenge.

5.2 There are no resource implications in adopting new rules.

² The Gambling Act 2005 (Proceedings of Licensing Committees and Sub Committees) (Premises Licence and Provisional Statements) (England and Wales) Regulations 2007 SI 2007/173

6.0 Conclusions

- 6.1 That revised and simplified rules should be adopted which make the necessary references to the statutory provisions.

7.0 Recommendations

- 7.1 That Members approve the Licensing Procedure Rules set out as Appendix 1 in substitution for the Licensing General Procedure Rules and Licensing Hearings Procedure Rules which were approved on 2 March 2005.

LICENSING COMMITTEE PROCEDURE RULES

1. INTERPRETATION

'The Chair' means the Chair of the Licensing Committee.

'The Committee' means the Licensing Committee or Licensing Sub Committee.

'The Relevant Regulations' means the Licensing Act 2003 (Hearings) regulations 2005 SI 2005/44 and the Gambling Act 2005 (Proceedings of Licensing Committees and Sub Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 SI 2007/173

'The 2003 Act' means the Licensing Act 2003

'The 2005 Act' means the Gambling Act 2005

2. SCOPE

These Procedure Rules will apply in respect all matters which are dealt with by the Committee under either the 2003 Act or the 2005 Act

3. APPLICATION OF COUNCIL PROCEDURE RULES/ACCESS TO INFORMATION PROCEDURE RULES

Except where the Relevant Regulations provide differently, the Council Procedure Rules and Access to Information Procedure Rules (in so far as they apply to committees and sub-committees) will be followed for all meetings of the Committee.

4. APPLICATION OF THE RELEVANT REGULATIONS

The provisions of the Licensing Act (Hearings) Regulations 2005 shall apply to any hearings conducted under the provisions of the Licensing Act 2003¹ and in the event of any conflict between the relevant regulations and the Council Procedure Rules/Access to Information Procedure Rules in relation to such hearings the provisions of the relevant regulations shall prevail.

The provisions of the Gambling Act 2005 (Proceedings of Licensing Committees and Sub Committees) (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 shall apply to the exercise of functions under Section 162 (1) and (2) and Section 201 (4) of the Gambling Act 2005 and in the event of any conflict between the relevant regulations and the Council Procedure Rules/Access to Information Procedure Rules in relation to the exercise of such functions the provisions of the relevant regulations shall prevail.

¹ Hearings are defined as those matters referred to in column 1 of schedule 1 to the regulations

4. APPOINTMENT OF CHAIR

The Authority shall appoint the Chair of the Licensing Committee at its AGM.

The Chair of each Licensing Sub-Committee shall be elected by the Sub-Committee at the start of each meeting.

5. QUORUM

Five Members (including the Chair) shall form a quorum for meetings of the Licensing Committee.

Three Members shall form a quorum for meetings of a Licensing Sub-Committee.

Except where authorised by statute, business shall not be transacted at a meeting unless a quorum is present.

6. SUBSTITUTE MEMBERS

Allocation

No substitute Members are appointed for the Licensing Committee.
In relation to each Licensing Sub-Committee, the Licensing Committee has appointed substitute Members, comprising all other Members of the Licensing Committee.

Substitution

A substitute Member shall be entitled to attend in place of a regular Member provided that the Committee Clerk has been notified of this before the meeting begins. Once the meeting has begun, the regular Member in respect of whom notification has been received, shall no longer be entitled to attend that agenda item as a Member of the Licensing Sub-Committee concerned.

Powers and duties

A substitute Member will have all the powers and duties of any regular Member of the Licensing Sub-Committee but will not be able to exercise any special powers or duties exercisable by the person for whom s/he is substituting.

A substitute Member shall be for all purposes a duly appointed Member of the Licensing Sub-Committee to which s/he is appointed as a substitute Member for the meeting in question and shall have the like duties, powers and responsibilities as the member whom s/he is replacing.

7. MEETINGS OF THE COMMITTEE

The Chair of the Committee or the Chief Executive may call a meeting at any time.

A special meeting of the Committee may be called on the requisition of any 3 Members of the Committee delivered in writing to the Chief Executive. The summons to such a special meeting shall set out the business to be considered and no business other than that set out in the summons shall be considered at that meeting.

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Report of the Director of Legal and Democratic Services

LICENSING COMMITTEE

Date: Tuesday 3rd April 2007

Subject: Gambling Act 2005 – Fees

<p>Electoral Wards Affected:</p> <p>All</p>	<p>Specific Implications For:</p> <p>Ethnic minorities <input type="checkbox"/></p> <p>Women <input type="checkbox"/></p> <p>Disabled people <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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1 Purpose Of This Report

1.1 This report informs Members about regulations which have now been laid which set the fee bands for premises licences under the Gambling Act 2005. The Licensing Committee must set the premises licence fees for premises in Leeds from within these prescribed fee bands.

2 Background Information

2.1 Members are advised that the transitional period for the new Act has now commenced. From the 1st of January 2007 existing gambling operators have been able to submit advance applications to the Gambling Commission for the required number of operators and personal licences.

2.2 Members will recall that the transitional period for the new Gambling Act in terms of the local authority commences on 21st May 2007. From this date, up until 30th July 2007, those applicants that have already made their applications to the Gambling Commission will become eligible to apply to ourselves to convert their existing licences/permits/registrations into new style premises licences / permits for the particular category of gambling that they wish to provide. Thus for example a bookmakers will need to apply for a betting premises licence.

2.3 Existing operators will have the choice of the type of application they make during the transitional period. They can either chose to apply for a 'Fast Track' application in

which case they effectively offer their consent to us to apply all the ¹default conditions in respect of the class of premises licence they are applying for.

- 2.4 Those operators that do not wish to accept the default conditions which would otherwise be attached to their licence may choose to submit a 'Non Fast Track' application and ask for one or more of the default conditions to be altered or excluded.
- 2.5 The 'Fast Track' licence application can not be the subject of public representations and they will only need to send their application to ourselves and will not be required to notify the responsible authorities. Under this route we must issue the licence without a hearing and have no discretion to add any additional conditions or alter any of the default conditions. ²Mandatory conditions will also be attached to their premises licence.
- 2.6 In the case of a 'Non Fast Track' application, applicants will be required to notify each of the responsible authorities about their application including the Gambling Commission and they will also have to advertise the application by displaying a notice at or on the premises as well as advertising the application in a local newspaper. If representations are made about the application during the statutory notice period then we will arrange a licensing committee hearing to determine the application. Mandatory conditions will also be attached to their premises licence.
- 2.7 It is difficult to predict how many 'Non Fast Track' applications will be received, and of those how many will attract any representations. It is however estimated that there will be in the region of 160 premises that will have the opportunity to consider this option.
- 2.8 Members are advised that the Act comes into full effect on the 1st September 2007. From this date those operators that have successfully submitted their applications to ourselves and the Gambling Commission during the transitional period will qualify for continuation rights even if they have not received their licences.

3. Main Issues

3.1 Fees Framework

- 3.1.1 The cost of determining and issuing premises licences will be met through a one off application fee. The application fee will cover the cost of administration associated with the licence application, including receiving and responding to representations from responsible authorities and interested parties, hearings and appeals. Once the licence is issued it will be of indefinite duration.
- 3.1.2 Annual fees will also be paid to cover the cost of ongoing administration, inspection and enforcement activity required under the new licensing regime. This fee will include direct costs and indirect costs, including a full proportional share of overhead costs, insurance, depreciation and cost of capital charge.
- 3.1.3 For the licensing authority this means that the service should be cost neutral. In determining application, annual and other fees licensing authorities must ensure that

¹ Default conditions will be specified by secondary legislation drawn up by the Secretary of State and will attach to certain categories of premises licence. Default conditions may for example specify the default opening hours for bingo clubs and bookmakers.

² Mandatory conditions will be specified by secondary legislation drawn up by the Secretary of State and will attach to certain categories of premises licence. Neither the applicant or the Licensing Authority will have any discretion to alter these conditions.

these are limited to recovery of the costs of carrying out their functions under the Act. Licensing Authorities will be required to review their fees annually to ensure that the income from the premises licences fees in any one accounting period (i.e. in any full year) does not exceed the full costs incurred by the authority in carrying out their relevant functions.

3.2 Government Prescribed Fee Bands

3.2.1 The government has prescribed the maximum level at which licensing authorities may set their fees as follows:

Premises Type	Transitional Fast-track Application Maximum Fee £	Transitional Non-fast track Application Maximum Fee £	New Application Maximum Fee £	Annual Fee Maximum £
New large casino	n/a	n/a	10,000	10,000
Existing casino	300	2,000	n/a	3,000
Bingo club	300	1,750	3,500	1,000
Adult Gaming Centres	300	1,000	2,000	1,000
Tracks	300	1,250	2,500	1,000
Family Entertainment Centres	300	1,000	2,000	750
Betting Premises(excluding tracks)	300	1,500	3,000	600

	Application to vary Maximum Fee £	Application to transfer Maximum Fee £	Application for Re-instatement Maximum Fee £	Application for Provisional Statement Maximum Fee £	Licence Application (provisional statement holders Maximum Fee £	Copy Licence Notification Maximum Fee £	Notification of change Maximum Fee £
Large casinos	5,000	2,150	2,150	10,000	5,000	25	50
Existing casinos	2,000	1,350	1,350	n/a	n/a	25	50
Bingo Clubs	1,750	1,200	1,200	3,500	1,200	25	50
Adult Gaming Centres	1,000	1,200	1,200	2,000	1,200	25	50
Tracks	1,250	950	950	2,500	950	25	50
Family Entertainment Centres	1,000	950	950	2,000	950	25	50
Betting premises (excluding tracks)	1,500	1,200	1,200	3,000	1,200	25	50

3.3 Licensing Committee delegated authority to set fees

3.3.1 The Government expects Licensing Authorities to set their fees to ensure full cost recovery. To achieve this officers have recently completed a resource/costing exercise to assess what resources will be required to carry out our duties under the Act. We have identified a requirement for additional staff during the transitional period as well as a new IT system to administer the processing of applications.

3.3.2 Based on this forecast expenditure it will be necessary to set the fees at their maximum level to ensure sufficient income to match this expenditure during 2007/2008.

3.3.3 Assessing all information available at the present time including:

- estimates about the number of applications for premises licences,
- the confirmed premises licence fee bands (as above),
- estimates of numbers of applications for permits,
- the draft permit fees regulations and
- assuming the fees are set as per the maximum permitted by the regulations

we anticipate a predicted income of £285,000 in the financial year 2007-2008.

Based on this exercise we believe the forecast income will meet but not exceed our forecast costs and therefore should allow us to put in place the additional resources required.

3.3.4 We would therefore recommend to Licensing Committee to consider the fees as per the fees tables provided in this report including an undertaking to review these fees at the end of year one as per government guidelines.

4.0 Implications For Council Policy And Governance

4.1 No implications in this area identified.

5.0 Legal And Resource Implications

5.1 As identified in para 3.3 above.

6.0 Recommendations

6.1 Members are requested to consider the recommendation detailed at para 3.3.4 of this report.



Report of the Director of Legal and Democratic Services

LICENSING COMMITTEE

Date: Tuesday 3rd April 2007

Subject: Gambling Act 2005 – Statement of principles for permits

<p>Electoral Wards Affected:</p> <p>All</p>	<p>Specific Implications For:</p> <p>Ethnic minorities <input type="checkbox"/></p> <p>Women <input type="checkbox"/></p> <p>Disabled people <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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1 Purpose Of This Report

1.1 To provide Members with the attached draft document (see Appendix 1) and advise of a consultation exercise which has just recently been completed.

2 Background Information

2.1 Members will recall that under the Gambling Act 2005 the Licensing Authority will issue unlicensed family entertainment center permits and prize gaming permits.

2.2 Unlike premises licences, these permits will not be bound by conditions. Consequently the legislation allows the licensing authority to prepare a statement of principles document in regard to prize gaming permits and unlicensed family entertainment centre (UFEC) permits. The purpose of the document is to clarify measures that the council will expect applicants to demonstrate when applying for either of these permits so the council can determine the suitability of the applicant and the premises for a permit.

2.3 Members will recall from the ‘Gambling Statement of Licensing Policy’ that UFECs are premises which provide ¹category D gaming machines only, and that prize gaming is gaming where the size and nature of the prize is not determined by the number of players eg. bingo games often offered in amusement arcades at seaside resorts.

¹ The maximum stake for category D machines is 10p or 30p when there is a non monetary prize. The maximum prize is £5 cash or £8 non monetary prize.

3 3. Main Issues

3.1 Consultation –

- 3.1.1 Officers have just recently completed an eight week consultation on the attached document. The document was uploaded to the council website. Officers also wrote to all amusement arcades in the district as well as sending the document to a number of the key social care agencies including Gamcare, Gamblers Anonymous and the Responsibility in Gambling Trust etc.
- 3.1.2 In response to the consultation Entertainment Licensing received no written responses from members of the trade.
- 3.1.3 Officers are satisfied that this response indicates that the trade must be happy with the document as it stands. Officers would therefore recommend to Licensing Committee to approve the document in its current form.
- 3.1.4 This document will be published on the council website. It will also be sent out in all application packs for these permits. It is hoped that, as a result, applicants for these permits will then send in supporting documentation with their applications which can be assessed by the licensing office in line with the principals of the document.
- 3.1.5 Where officers are not satisfied applicants have met the requirements of the statement of principles document and or there is a lack of supporting evidence, officers will refer the matter to Licensing Committee. It is important to note that the only discretion the Licensing Authority has in regard to these applications is either to grant the permit or reject it, therefore it may also be necessary for the licensing office to ask applicants to supplement their applications before the matter reaches Licensing Committee to try and negate the need for a hearing.

4.0 Implications For Council Policy And Governance

- 4.1 No implications in this area identified.

5.0 Legal And Resource Implications

- 5.1 The attached 'Statement of Principles' document will lead to applicants needing to provide more documentation to support their applications and as such may increase processing time. It is important to note however that applicants for these permits are not required to hold operating or personal licenses from the Gambling Commission and hence will not have been through a vigorous vetting process. The supporting documentation that applicants will be encouraged to provide will help the Licensing Authority to carry out its own vetting process.

6.0 Recommendations

- 6.1 Members are requested to consider the recommendation at 3.1.3 above.

Gambling Act 2005



Statement of Principles

**Unlicensed Family Entertainment Centre Gaming
Machine Permits**

&

Prize Gaming Permits

DRAFT V1.0

Please note:
The information contained within this document can be made available in different languages and formats including Braille, Large Print and Audio Cassette.

Contents

1. The Gambling Act 2005
2. Purpose of this document
3. Unlicensed family entertainment centres (UFECs)
4. Prize Gaming Permits
5. Statement of Principals for UFEC gaming machine permits and prize gaming permits
 - 5.1 Supporting documents
 - 5.2 Child protection issues
 - 5.3 Protection of vulnerable persons issues
 - 5.4 Other miscellaneous issues

1. The Gambling Act 2005

- 1.1 The Gambling Act 2005 (the Act) reforms the law on all commercial gambling in the United Kingdom except the National Lottery and spread betting.
- 1.2 Leeds City Council is the licensing authority for Leeds and licences premises for gambling such as bookmakers, casinos and bingo halls as well as issuing various other gambling permits. Unless otherwise stated any references in this document to the council is to the Leeds' licensing authority.
- 1.3 The Act requires the council, as licensing authority, to aim to permit the use of premises for gambling in so far as the authority think it:
 - in accordance with a relevant code of practice
 - in accordance with any relevant guidance issued by the Gambling Commission
 - reasonably consistent with the licensing objectives and
 - in accordance with the licensing authority policy issued under the Act.
- 1.4 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 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. Purpose of this document

- 2.1 This document has been prepared to assist persons considering making an application for either an unlicensed family entertainment centre (UFEC) gaming machine permit or a prize gaming permit under the Gambling Act 2005.
- 2.2 In respect of UFEC gaming machine permits it has been prepared in accordance with Paragraph 7 of Schedule 10 of the Act and in respect of prize gaming permits it has been prepared in accordance with paragraph 8 of Schedule 14 of the Act. The document should be read in conjunction with 'Leeds Gambling Act 2005 – Statement of Licensing Policy 2007-2010'.
- 2.3 The purpose of the document is to clarify measures that the council will expect applicants to demonstrate when applying for either of these permits so the council can determine the suitability of the applicant and the premises for a permit.
- 2.4 Within this process the council will aim to grant the permit where the applicant is able to demonstrate that:
 - they are a fit and proper person to hold the permit

- they have considered and are proposing suitable measures to promote the licensing objectives and
- they have a legal right to occupy the premises to which the permit is sought.

2.5 The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

3. Unlicensed family entertainment centres

3.1 The term ‘unlicensed family entertainment centre’ is one defined in the Act and refers to a premises which provides category D gaming machines along with various other amusements such as computer games and penny pushers. The premises is ‘unlicensed’ in that it does not require a premises licence but does require a permit to be able to provide its category D gaming machines. It should not be confused with a ‘licensed family entertainment centre’ which does require a premises licence because it contains both category C and D gaming machines.

3.2 Unlicensed family entertainment centres (UFECs) will be most commonly located at seaside resorts, in airports and at motorway service centres, and will cater for families, including unaccompanied children and young persons.

3.3 The council will only grant a UFEC gaming machine permit where it is satisfied that the premises will be operated as a bonafide unlicensed family entertainment centre.

3.4 In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in this “Statement of Principles” have been addressed through the application.

3.5 Applicants only need to address the “Statement of Principles” when making their initial applications and not at renewal time. (Permits are granted for a period of ten years.)

4. Prize gaming permits

4.1 Section 288 defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences. Prize gaming can often be seen at seaside resorts in amusement arcades where a form of bingo is offered and the prizes are displayed.

4.2 A prize gaming permit is a permit issued by the council to authorise the provision of facilities for gaming with prizes on specified premises.

4.3 Applicants should be aware of the conditions in the Gambling Act 2005 by which prize gaming permit holders must comply. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize) and
- participation in the gaming must not entitle the player to take part in any other gambling.

4.4 In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in this “Statement of Principles” have been addressed through the application.

4.5 Applicants only need to address the “Statement of Principles” when making their initial applications and not at renewal time. Permits are granted for a period of ten years.)

5. Statement of Principles for UFEC gaming machine permits and prize gaming permits

5.1 Supporting documents

5.1.1 The council will require the following supporting documents to be served with all UFEC gaming machine permit and prize gaming permit applications:

- proof of age (a certified copy or sight of an original birth certificate, driving licence, or passport – all applicants for these permits must be aged 18 or over)
- proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property’s deeds or a similar document
- an ¹enhanced criminal record certificate. (this should be no greater than one month old.) This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.)
- In the case of applications for a UFEC gaming machine permit evidence that the machines to be provided are or were supplied by a legitimate gambling

¹ Enhanced criminal record certificates can be obtained from Disclosure Scotland. For further details call their helpline number 0870 609 6006, or visit the website <http://www.disclosurescotland.co.uk/>

operator who holds a valid gaming machine technical operating licence issued by the Gambling Commission

- A plan of the premises to which the permit is sought showing the following items:
 - the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
 - where any category D gaming machines are positioned and the particular type of machines to be provided (eg. slot machines, penny falls, cranes)
 - The location where any prize gaming will take place (including any seating and tables) and the area where any prizes will be displayed.
 - the positioning and types of any other amusement machines on the premises
 - the location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area
 - the location of any ATM/cash machines or change machines
 - the location of any fixed or temporary structures such as columns or pillars
 - the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
 - the location of any public toilets in the building.

(Unless agreed with the council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100)

5.2 Child protection issues

5.2.1 The council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The council will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures / training for staff as regards the following:

- maintain contact details for any local schools and or the education authority so that any truant children can be reported
- employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- display posters displaying the 'Child Line' phone number in discreet locations on the premises Eg. toilets
- maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the

premises. (The register should be used to detect any trends which require attention by the management of the premises.)

- ensure all young children are accompanied by a responsible adult. Maintain policies to deal with any young children who enter the premises unaccompanied
- Enhanced criminal records checks for all staff who will be working closely with children.

NB: Any supporting evidence of the above measures eg. training manuals or other similar documents/written statements should be attached to the application.

5.3 Protection of vulnerable persons issues

5.3.1 The council will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to the section in the council's 'Gambling Act 2005 - Statement of Licensing Policy' to familiarise themselves with who the council considers vulnerable. The council will assess these policies and procedures on their merits, however, they may (depending on the particular permit being applied for) include appropriate measures / training for staff as regards the following:

- display Gamcare helpline stickers on all gaming machines
- display Gamcare posters in prominent locations on the premises
- training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (eg. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- consider appropriate positioning of ATM and change machines. (including the display of Gamcare stickers on any such machines.)

NB: Any supporting evidence of the above measures eg. training manuals or other similar documents/written statements should be attached to the application.

5.4 Other miscellaneous issues

5.4.1 The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance as follows:

- maintain an effective CCTV system to monitor the interior and exterior of the premises
- keep the exterior of the premises clean and tidy
- ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises
- consider the design and layout of the outside of the premises to deter the congregation of children and youths.

NB: Any supporting evidence of the above measures eg. training manuals or other similar documents/written statements should be attached to the application.



Report of the Director of Legal and Democratic Services

LICENSING COMMITTEE

Date: Tuesday 3rd April 2007

Subject: Leeds Large Casino Development and related amendments to the Council's 'Gambling Act 2005 – Statement of Licensing Policy'

<p>Electoral Wards Affected:</p> <p>All</p>	<p>Specific Implications For:</p> <p>Ethnic minorities <input type="checkbox"/></p> <p>Women <input type="checkbox"/></p> <p>Disabled people <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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1.0 Purpose Of This Report

1.1 The purpose of this report is to advise and seek input from the Licensing Committee on work being undertaken by officers of the Entertainment Licensing Section to revise Part F of the council's 'Gambling Act 2005 – Statement of Licensing Policy'. Part F of the policy sets out the manner in which the council should determine any competing applications it may receive for a large casino licence.

2.0 Background information

- 2.1 The Gambling Act 2005 (the Act) gives effect to Government proposals for the reform of the law on gambling. The Act contains a new regulatory system to cover the provision of all commercial gambling in Great Britain, other than the National Lottery and spread betting.
- 2.2 Leeds City Council is appointed as the Licensing Authority for Leeds, and will issue licences to premises for gambling within the Leeds district, together with various permits and notices to regulate smaller scale gambling.
- 2.3 Another key provision of the new Act is the introduction of three new categories of larger casino; 1 super/regional casino, 8 large casinos and 8 small casinos.
- 2.4 Large casinos will have a minimum total customer area of 1,500m². This category of casino will be able to offer casino games, bingo and/or betting and up to 150 category B1 (£4,000) jackpot gaming machines.

3.0 Main issues

3.1 Redraft of Part F of the council's 'Gambling Act 2005 – Statement of Licensing Policy'

- 3.1.1 This report provides Licensing Committee with information about a proposed rewrite of Part F of the council's 'Gambling Act 2005 - Statement of Licensing Policy' which is being proposed as a result of Leeds' successful bid to the Department of Culture Media and Sport to licence a new large casino.
- 3.1.2 Members will recall that the current version of the policy was approved by Full Council at a special meeting called for that purpose in December 2006. At this time the council was still awaiting the determination of the Casino Advisory Panel as to whether Leeds' application to licence a new style 'large' casino had been successful.
- 3.1.3 On the 30th January 2007 the Casino Advisory Panel announced that Leeds had been successful in its bid and that the Panel would be recommending to the Secretary of State for Culture Media and Sport to lay an order before Parliament giving effect to its recommendations.
- 3.1.4 Given the likelihood that this order will be laid officers are now in the process of reviewing how the application process might work. The legislation indicates that licensing authorities should carry out a two stage process starting with an assessment of each application from a purely licensing perspective. Following this, authorities are then directed to carry out a detailed competitive exercise in order to determine which bid offers the greatest benefit to the city. Both the determinations at stage one and stage two rest with the council's Licensing Committee.
- 3.1.5 In order to assist the committee with this process officer's believe it would now be beneficial to redraft Part F of the 'Statement of Licensing Policy' to tighten up the provisions around the manner in which the council should invite and determine the competing applications.
- 3.1.6 A rewrite at this stage would be beneficial for a number of reasons. Firstly it would allow officers to incorporate some of the very useful recommendations detailed in the 'Heath, Economic and Social Impact Study' commissioned by the Development Department and produced by the consultants PMP which was used to support the bid. Particularly the management and mitigation recommendations detailed at page 5 of the 'Executive Summary' to this report. (The 'Executive Summary' is attached at Appendix 1 to this report.)
- 3.1.7 In addition it would also allow officers to update the policy and bring it in line with the Government's recently issued draft consultation paper covering the matters licensing authorities should have regard to in making their casino determinations. This paper, which is attached for Members interest at Appendix 2, sets out proposals for the timing of competitions and the manner in which local authorities should advertise the competitions and also lays down guidance about the matters licensing authorities should have regard to in making their determinations.
- 3.1.9 Officers are proposing to consult on a revised Part F as soon as it is practicable and will report the findings of the consultation back to Executive Board at their meeting in June ahead of seeking Full Council approval in July.

3.2 Formulation of an ‘Officer Advisory Panel’

- 3.2.1 The final decision about the grant of the large casino licence will rest with Licensing Committee. Unlike regular gambling premises licence applications, the process for the large casino licence will follow a two stage assessment. Indeed following a stage one assessment of each application from a purely licensing perspective, there will follow a detailed stage two competitive exercise where each bid will need to be assessed to evaluate its economic, social, health, environmental and transport implications.
- 3.2.2 To assist the Committee with this process, officers of the Development Department who managed the council’s casino bid and officers from Legal and Democratic Services have begun some preliminary discussions with colleagues from across the council who may be able to provide the Committee with specialist guidance in these areas.
- 3.2.3 One possibility that is being explored is the feasibility of running a process that might be similar in fashion to a competitive tendering exercise calling on input from the council’s procurement unit. Within this process each bid would be scored in a number of different areas and an amalgamated ‘final score’ would be sent to Licensing Committee to offer them some guidance on the quality of the bids in the different areas identified.
- 3.2.4 Officers would welcome any feedback Licensing Committee would have on these initial proposals.

4.0 Implications for council policy and governance

- 4.1 An amendment to the council’s ‘Statement of Licensing Policy’ under the Gambling Act 2005 is a matter reserved for Full Council.

5.0 Legal and resource implications

- 5.1 The council’s ‘Gambling Statement of Licensing Policy’ must be taken into account when officers and Members are making decisions on applications for premises licences and permits under the Gambling Act 2005. This includes any applications for a large casino licence.
- 5.2 The opportunity to revise Part F of the council’s ‘Gambling Statement of Licensing Policy’ will allow the council, to approve a policy document which is better equipped to assist the council with the very complex task of ranking competing applications and may protect the council against judicial review.

6.0 Recommendations

- 6.1 Members are requested to note the contents of this report and the accompanying appendices and to provide feedback on the proposals.

Appendices

Appendix 1 – PMP Report – Executive Summary

Appendix 2 – DCMS Draft Code of Practice for Casino Applications

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LEEDS CASINO

CASINO IMPACT ASSESSMENT STUDY



A FINAL REPORT

BY

PMP

22 December 2006

Introduction

PMP was appointed in late August 2006 to work with the Leeds Casino Task Group (LCTG) to:

- understand the potential economic, health and social impacts of casino based gambling
- develop a methodology for ongoing measuring and monitoring of these impacts in Leeds, both now and following the introduction of any casino development, drawing upon best practice and an understanding of the current incidence/ local impact of casino related gambling in the city
- develop recommendations on how this monitoring data can be used to support the mitigation and management of these impacts going forward.

The need for this study resulted from the Casino Advisory Panel (CAP) bidding process, in which Leeds has been short-listed for one of eight large casino licences. The CAP has requested further information as part of the ongoing bidding process, which will be used to influence and guide licensing policy.

The study started with a comprehensive research (building upon existing research where possible) and consultation programme, the findings of which then informed the development of ongoing monitoring and management recommendations. Throughout the study process the LCTG has provided input and feedback and has signed-off the work undertaken at each key stage.

Potential impacts of casino based gambling

A comprehensive review of potential economic, health and social impacts of casino based gambling was undertaken and key indicators for each of the impacts were identified to inform the development of measurement and management options and recommendations.

It should be noted that whilst the research and evidence to support identification and measurement of economic impacts and indicators is relatively robust, drawing on the experience of both casino and other commercial leisure markets, the review of health and social impacts was complicated by the following factors:

- there is a distinct lack of evidence based research on many of the frequently quoted anecdotal impacts of casino based gambling
- research suggests that the impacts of casinos are related to a variety of variables that are as yet poorly understood. The consequence of this is when apparently straightforward conclusions on potential impacts are subject to detailed research, the evidence is often mixed, and apparently straightforward causal connections can be difficult to prove
- whilst there is broad agreement that the scope and scale of impacts from casino-related gambling reflect the size and location of the casino in question, as well as the types of gambling available at the venue, the weight of impact research currently available in the UK focuses on regional scale casinos. Evidence on potential variations to the impacts experienced, resulting from the development of a large rather than regional casino, is therefore extremely limited

EXECUTIVE SUMMARY

- the extent to which negative or positive impacts are generated by a casino development will crucially rest upon the type of licensing and accompanying management/ mitigation measures which are in place. Research into the nature of impacts experienced therefore needs to take this into account.

These factors demonstrate that it is important to be clear on the robustness of the evidence available, so that objective conclusions can be drawn to inform ongoing measurement and management of impacts in Leeds.

This was taken into account in the identification of impact indicators, which were broken down, as illustrated in the following table, into:

- core indicators** – possible to measure a change and directly link the change to casino-related gambling opportunities eg the number of jobs directly created by a new casino
- wider indicators** – possible that a change in the indicator is linked to increased opportunities to gamble in a casino, but the precise nature and direction of that link is less clear as other factors are present eg improved profile and image of a region resulting from a change in perception of what it has to offer.

Summary of impacts and key indicators

Category of impact	Specific impact	Core indicators	Wider indicators
Economic	Positive: <ul style="list-style-type: none"> job creation training and skills development increased spend in local area/region tourism impacts regeneration and new infrastructure inward investment Negative: <ul style="list-style-type: none"> displacement impacts opportunity costs 	<ul style="list-style-type: none"> gross/ net staffing expenditure pa and resultant direct employment (FTE) on site gross/ net annual expenditure on the purchase of goods and services and resultant indirect employment (FTE) gross off site expenditure by visitors to the casino and resultant indirect employment gross expenditure by accompanying visitors and resultant indirect employment gross expenditure by return visitors and their guests and resultant indirect employment total capital cost of casino development and resultant direct employment in project development/ construction 	<ul style="list-style-type: none"> improved profile and image of an area resulting from a change in perceptions of what it has to offer increased developer interest in complementary developments identified via changes in land values and developer interest. increased developer interest in wider investment/ regeneration opportunities value of new infrastructure constructed alongside casino development, eg new roads, car parking etc inward investment activity opportunities for development of specialised skills and services including training schemes provided by casino operator increased business expertise/ improved company operating standards among casino suppliers reputation and perception increased marketing of destination
Health	Positive: <ul style="list-style-type: none"> well-being, social contact, enhanced memory Negative: <ul style="list-style-type: none"> health impacts experienced by an individual assoc with problem gambling 	<ul style="list-style-type: none"> incidence of problem gambling volume of calls/visits to local debt advice centres, advisors and counselors 	<ul style="list-style-type: none"> reported incidence of stress related illness reported incidence of personal bankruptcy (citing gambling debt) local suicide rates local unemployment rates drug and alcohol dependency rates
Social	Positive: <ul style="list-style-type: none"> social contact Negative: <ul style="list-style-type: none"> wider impacts of problem gambling upon a family or community financial inclusion issues, including elevated rates of indebtedness crime impacts environmental impacts of the casino 	<ul style="list-style-type: none"> volume of calls/visits to local debt advice centres, advisors and counselors 	<ul style="list-style-type: none"> local divorce rates (citing gambling related unreasonable behaviour) reported incidence of personal bankruptcy (citing gambling debt) local crime rates – inc reported incidents of drunkenness, violence, anti-social behaviour and noise near to casino developments wider crime rates including incidence of money laundering and fraud volume of visits to the casino made by car observed traffic congestion on routes to, and around the casino impact on local area of construction phase

In light of the limited evidence/ robust causal links available for many of the wider indicators, it was agreed with the LCTG that the monitoring and measurement process should focus on the core indicators identified, at this stage. However, it is recognised that it will be important to work with the Government and other key stakeholders to establish means by which to monitor wider impacts more effectively in the future.

Measurement and monitoring

Impact measurement spreadsheet

To draw together and shape the extensive information used to inform the 'core indicator' measurement and monitoring recommendation development process, a detailed 'impact measurement spreadsheet' was developed. Our objective in developing the spreadsheet was to provide a means of collating extensive data in a format that can be easily updated and developed over time. It also represents the core tool for ongoing monitoring and measurement as part of a longitudinal study process, as it draws together all of the key data, data sources and actions required to inform this process.

The spreadsheet includes the following information in tabular format:

- indicators - Leeds casino baseline indicators, wider casino and gambling baseline indicators and impact indicators for health, social and economic impacts (as above)
- best practice measurement examples for each indicator
- recommended measurement and monitoring techniques for each indicator focussing on existing measurement processes or proposed new measurement processes, such as primary research, development of external agency/ partner data sources and additional synthesis and interrogation of existing data sources
- baseline position for each indicator at national, regional, local and district level where available
- staffing/ resource implications for monitoring of each indicator focussing on a potential Central 'Impact Research Co-ordinator' resource and existing resources of partner/ stakeholder agencies
- potential management and mitigation techniques for each indicator to maximise positive impacts and minimise negative impacts.

Economic impact model

To support the core economic indicator measurement recommendations in the 'impact spreadsheet', an 'economic impact model' has also been developed. This has been structured for ease of use on an ongoing basis by the LCTG, with key assumptions and guidance on how it should be developed clearly identified. The model also allows scenario testing on the impact of different forms of development to be undertaken.

At this stage, in the absence of more robust industry data, the model focuses on providing a quantified appraisal of the core economic indicators, with summary text provided on wider non-quantifiable economic indicators. All of these indicators were identified above and can be summarised as follows:

Core / quantifiable indicators:

- direct employment on site
- indirect employment through:
 - purchase of goods and services
 - off site expenditure by users
 - accompanying visitor spend and return visitor expenditure
 - direct employment in project development and construction

Wider/ non-quantifiable indicators:

- support for wider business and regeneration impacts
- wider tourism market development impacts
- opportunity cost impacts.

Within the impact model, all quantifiable impacts have been considered in terms of both their gross and net impact on the local economy. Key findings, based on current assumptions (as detailed in the impact assessment model) include:

- gross job creation resulting from the development of a large casino in Leeds is calculated as **607.8 gross FTE jobs**
- once deadweight, displacement, leakages and multipliers have been taken into account, net job creation is calculated as:
 - circa **734 net FTE jobs for the region**
 - of which **620 are estimated to be based in Leeds**
 - of which **251 are estimated to be based in the local area** surrounding the casino development.

Other key economic indicators include:

- potential gross staffing expenditure in excess of £7 million
- potential capital expenditure of circa £25 million.

The review also demonstrates that whilst the wider impact criteria cannot be quantified at this stage, they are potentially significant and need to be taken into account as part of any robust appraisal of economic impacts.

The impact model provides a simple and transparent means of quantifying the core economic impacts of a casino development in Leeds, supported by a review of wider non-quantifiable opportunities. We recommend that it be used as part of the ongoing measurement and monitoring of economic impact indicators of casino development in Leeds. Ongoing development of the model to take account of emerging local and wider market data is also recommended.

Management and mitigation

A key objective of the Council, LCTG and other stakeholders is to maximise the positive impacts (management) and minimise the negative impacts (mitigation) of a large casino development in Leeds.

A comprehensive review of best practice management and mitigation measures utilised around the world was therefore undertaken and recommendations as to the most appropriate management and mitigation measures for Leeds identified. A selection of the headline recommendations are summarised below.

Economic impact – management and mitigation recommendations for Leeds

The Council and its partners should use the competition process to deliver the maximum local economic benefit. Operators/ developers should be assessed on criteria including the following:

- proposed job creation and training/skills development, including:
 - number of employment opportunities to be targeted within the immediate vicinity of the casino
 - staff training and development programmes
 - commitment to the Employment and Skills Strategy for Leeds
- commitment to local supplier agreements
- site that meets physical and social regeneration need and maximises potential
- proposals for on-going revenue contributions that support local health and social impact programmes.

The Council must utilise the competition process, and the town planning system to ensure that the selected site, provides the most positive economic/ regenerative impact, whilst minimising any potential environment impact.

The Council and its partners should seek to link the casino to business or leisure tourism marketing campaigns/ strategies to encourage additional trips to the city.

Health impacts - management and mitigation recommendations for Leeds

The management and mitigation measures identified in relation to problem-gambling need to be delivered through a partnership approach, including; the Council, casino operator(s) and other local stakeholders such as the Leeds Initiative and the CAB. The Council should ensure, through the licence competition process, a thorough assessment of operator proposals on the following:

- quality/ number of employee training schemes (*measured by no of training schemes, number of trained counsellors etc*)
- operator exclusion policy
- access to immediate assistance for casino users (printed, interactive, human etc)
- public awareness campaigns.

The Council and its partners could lead public awareness campaigns, as they will have access to a network of information providers/ mediums that can reach vulnerable groups. For example, the universities could work with the operator to target an awareness campaign at students.

Social impacts - management and mitigation recommendations for Leeds

The management and mitigation techniques relating to social impact can be broken down into the following categories, recommended for implementation in Leeds:

- partnership working
 - the Council, CTG and other stakeholder groups should seek to work with the casino operator to manage/ mitigate the potential impacts – this could be through an extension of the remit of the CTG to include the successful operator
- designing out crime
 - casino design to be designed in consultation with Police Architectural Liaison Officers and Safer Leeds Partnership (local input)
 - design to take account of feedback from latest British Casino Security Measures Network
- revenue support
 - operator contribution to the cost of social impacts to be sought – this could for example contribute to the fund proposed by the Leeds Financial Inclusion Group or through charitable donations to chosen charities (eg Samaritans)

The Council, through the licence competition process can ensure that the selected operator is signed up to partnership working and some or all of the management and mitigation techniques set out above.

Study conclusions and recommendations

The casino impact assessment study provides a comprehensive review of the impacts and related indicators of a large casino in Leeds, has developed methodologies for measuring and monitoring these indicators and identified ways to maximise the positive impacts (management) and minimise the negative impacts (mitigation).

Whilst focussing on a series of core indicators, for which causal links can be identified, a series of annual surveys to assess changing perceptions, as well as ongoing work with relevant stakeholders on how wider indicators can be monitored more effectively, is also recommended.

It is important to note that whilst this study reflects our current understanding of casino impact measurement and management issues and opportunities in Leeds, there is significant ongoing research and policy development work, locally, regionally and nationally, to understand and manage the potential impacts of casinos across the UK.

Therefore, the impact assessment report should not be seen as a definitive statement on future impact management, but as a living document, which will evolve and develop over time, to take account of wider research findings, as well as the specific objectives and aspirations of the key stakeholder groups and the selected casino operator. This is recognised by the LCTG and the universities, who are likely to play a key role in implementing any recommendations going forward.

It is now essential that the various agencies involved in the casino development process action the study recommendations.

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department for
**culture, media
and sport**

Gambling Act 2005

Consultation

Gambling (Inviting Competing Applications for Casino Premises Licences) Regulations

Gambling Act 2005 - Code of practice for determining applications for casino premises licences

February 2007

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Section 1: Introduction

- 1.1 Section 175 of the Gambling Act 2005 provides for the licensing of three new categories of casino, and imposes limits on the number of premises licences of each category that may have effect at any time. Only one regional, eight large and eight small casino premises licences will be permitted, and the government has made it clear that it will not consider allowing any further casinos until a proper assessment has been undertaken of their social and economic impact.
- 1.2 Section 175(4) of the Act requires the Secretary of State to make an Order specifying which licensing authorities are permitted to issue the 17 new casino premises licences. The Secretary of State appointed an independent panel – the Casino Advisory Panel – to advise her on this, and the Panel published its report on 30 January 2007. The intention is that a draft Order will be laid in Parliament at the earliest opportunity. This will be subject to the affirmative resolution procedure, requiring a debate and potentially a vote in both Houses.
- 1.3 Schedule 9 to the Gambling Act 2005 provides for the process that licensing authorities specified in the Order under section 175(4) must follow when inviting and considering applications for the new casino premises licences and applications for provisional statements in respect of new casinos.¹ As there are only a limited number of casino premises licences available, Schedule 9 requires licensing authorities to run competitions for these licences.
- 1.4 The process for the competition is outlined in Schedule 9:
- the licensing authority must first invite competing applications for the premises licence;
 - it must then submit those competing applications to a two-stage consideration process:
 - Stage 1 – Regulatory test – the licensing authority must determine whether, if it was entitled to issue an unlimited number of casino premises licences, it would

¹ In the remainder of this document we refer to applications for new casino premises licences. This should be read as including applications for provisional statements in respect of new casinos.

grant each application. In making this determination, the licensing authority will apply the same tests and process as it would apply in respect of any other application for a premises licence.

- Stage 2 – Greatest benefit test – if more than one application passes the Stage 1 regulatory test, the licensing authority must determine which of the competing applications would, in its opinion, be likely to result in the greatest benefit to the authority's area.

1.5 Schedule 9 contains two powers for the Secretary of State in relation to the conduct of these competitions:

- Paragraph 2 requires the Secretary of State to make regulations that licensing authorities must comply with when inviting competing applications. In particular, these regulations must make provision:
 - about the publication of invitations, including provision as to the manner and timing of publication and the matters to be published; and,
 - about the timing of responses.
- Paragraph 6 enables the Secretary of State to issue a code of practice about the procedure to be followed by licensing authorities when making both the Stage 1 and 2 determinations outlined above, and what matters licensing authorities should have regard to in making those determinations.

1.6 This consultation paper sets out the Department for Culture, Media and Sport's (the Department's) proposals for the:

- Gambling (Inviting Competing Applications for Casino Premises Licences) Regulations 2007;
- Gambling Act - Code of Practice for determining applications for casino premises licences;

1.7 Paragraph 10(4) of Schedule 9 enables the Secretary of State to make regulations prescribing the process that licensing authorities must follow when considering an application by the holder of a provisional statement in respect of a casino to extend the duration of the provisional statement. We will consult separately on these regulations later this year.

- 1.8 The Gambling (Inviting Competing Applications for Casino Premises Licences) Regulations will be subject to the negative resolution procedure in Parliament, meaning that they will be laid in Parliament after being made and may be annulled by resolution of either House. A draft Regulatory Impact Assessment is attached at Appendix 2. Copies of the draft regulations will be available shortly. The Code of Practice is not subject to formal Parliamentary scrutiny, but the intention is that it will be published by the Department alongside the regulations.

Consultation

- 1.9 The Department welcomes comments on these proposals and the attached draft RIA. The paper will be of particular interest to: licensing authorities authorised to issue the new casino licences, faith groups, community groups, casino operators, developers and the gambling industry as a whole.
- 1.10 The closing date for responses is 2nd May 2007. Please send your comments in writing or by email to:

Jennifer Smith
Premises Licensing Team
Gambling Division
Department for Culture, Media and Sport,
2-4 Cockspur Street,
London SW1 5DH;
Jennifer.smith@culture.gsi.gov.uk

- 1.11 A summary of responses will be published within three months of the closing date for consultation. All information in responses, including personal information, may be subject to publication or disclosure under Freedom of Information legislation. If a correspondent requests confidentiality, this cannot be guaranteed and will only be possible if considered appropriate under the legislation. Any such request should explain why confidentiality is necessary. Any automatic confidentiality disclaimer generated by your IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.
- 1.12 If you have any questions or complaints about the process of consultation on this paper, please contact Liz Sweet, Consultation Co-ordinator, Strategy Division, Department for Culture, Media and Sport, 2-4 Cockspur Street, London SW1Y 5DH, liz.sweet@culture.gsi.gov.uk

Section 2: Proposals for consultation

Principles underpinning these proposals

2.1 The government's policy on casinos was set out in its Statement of National Policy published on 16 December 2004 (it can be found on the DCMS website at: http://www.culture.gov.uk/Reference_library/Press_notices/archive_2004/dcms168_04.htm). The Statement explained the rationale for limiting the number of new casino premises licences that would be made available under the Gambling Act. The terms of reference for the Casino Advisory Panel, and the criteria by which the areas for the new casinos would be selected, were also drawn from this Statement.

2.2 Paragraphs 19 and 20 of the Statement also outlined how the competitions for the new casino premises licences would be conducted, and those paragraphs are reproduced here for ease of reference:

19. A local licensing authority will only be able to award a casino premises licence if one has been identified for its area. The process for awarding a premises licence will be open to all operators. It will have two stages. The first stage will be a regulatory test to ensure that all proposals satisfy the regulatory premises licensing requirements already in the Bill. The second stage will be triggered where there are more applications for casino premises licences than the local licensing authority is permitted to grant.

20. The second stage of the process will be a competition held by the local authority on the wider casino proposal. We will consult with the Local Government Association and others on how the competition should be conducted. The competition could be judged on a wide range of issues, reflecting the issues that are important in the local area, local concerns and priorities. These may include, for example, employment and regeneration potential, the design of the proposed development, financial commitments by the developer to local projects, location, range of facilities and other matters. The local authority may wish to provide an opportunity for consultation with local people. The local authority would set out its priorities and concerns in a set of objective key considerations and it will then invite operators to submit entries to the competition. The eventual winner of the competition will be eligible for a full premises licence once he has obtained planning permission and the casino has been built.

2.3 The government considers that it is in the interests of fairness to all licensing authorities that made proposals to the Casino Advisory Panel, and to anyone interested in securing one of the new casino premises licences, that its previously published policy should continue to form the basis of its approach moving forward. The government continues to believe that licensing authorities will be better placed than central government to determine local needs and local priorities, and that authorities should have the widest possible discretion to maximise the benefits accruing to their local area from the licensing of a new casino.

2.4 The government has, therefore, taken the view that it is preferable to keep what is said in the Schedule 9 regulations and Code of Practice to the minimum that is consistent with ensuring that:

- full account is taken of the need to protect children and other vulnerable people who may be at risk from problem gambling, and to prevent any new casino from becoming a source of crime or disorder;
- licensing authorities run fair and open competitions for the new licences;
- the process for the competitions is transparent, and clearly understood by all interested parties;
- there is consistency with previously published policy, and with the criteria that the Casino Advisory Panel used to make its recommendations;
- the views of local people are taken into account when determining the outcome of these competitions;
- licensing authorities have the widest possible discretion to maximise the benefits accruing to their local area from the licensing of the new casino.

Q1: Do you agree with the approach set out in paragraphs 2.1-2.4? Do you agree with the broad principles underpinning the government's approach set out in Paragraph 2.4?

Proposals for Gambling (Inviting Competing Applications for Casino Premises Licences) Regulations

Summary of proposals

2.5 Paragraph 2 of Schedule 9 requires the Secretary of State to make regulations that licensing authorities must comply with when inviting competing applications. In particular, these regulations must make provision:

- about the publication of invitations, including provision as to the manner and timing of publication and the matters to be published; and
- about the timing of responses.

2.6 In line with the broad principles outlined above, the government considers that the regulations under this Paragraph are necessary to help ensure that:

- licensing authorities run fair and open competitions for the premises licences;
- the process for the competitions is transparent, and clearly understood by interested parties;
- licensing authorities are able to maximise the benefits accruing to their local area from the licensing of a new casino.

2.7 The government is therefore proposing that the regulations should require that:

- an invitation to apply for a casino premises licence must be publicised by a licensing authority in a manner that ensures that it is likely to come to the attention of as many potentially interested bidders nationally and internationally as possible. This will include, as a minimum, publication of the invitation in: a casino trade publication with national and international circulation; and the Official Journal of the European Union;
- the invitation must be so publicised at least three months before the final date on which applications for the casino premises licence may be submitted;
- the invitation must include the following information:
 - a summary of the competition process describing, in particular, the two determination stages and the differences between them;
 - an indicative timetable for the competition process setting out, in particular, the date by which applications must be submitted and the dates by which the licensing authority anticipates it will undertake the two determination stages;
 - a statement that an application for a casino premises licence must be made in the same way as any other application for a premises licence under Part 8 of the Gambling Act 2005, using the application form prescribed under that Part for all premises licence applications. No information, other than that which would ordinarily be submitted with an application for a premises licence, should be submitted with the application;
 - details of what criteria the licensing authority will take into account when determining the outcome of the second stage of the competition (under Paragraph 5 of Schedule 9);
 - a statement that the licensing authority will not, in undertaking the first stage of the determination process, take into account information which is only relevant to the second stage. Information which is relevant to both stages should, of course, be taken into account at the first stage.

Commentary

Publicising the invitation to apply

2.8 The government is keen to strike a balance between ensuring that invitations to apply for a casino premises licence are drawn to the attention of as many organisations, both nationally and internationally, as might be interested in applying for a casino premises licence, and not imposing an unnecessary cost burden.

2.9 The government is conscious that there has been considerable interest in the development of its casino policy both nationally and internationally in both the

mainstream and the trade press. It is, therefore, reasonable to assume that anyone who is potentially interested in developing and operating one of the new casinos permitted by the Act will know which licensing authorities will have the right to issue the premises licences before applications for such licences are invited, and will be able to make himself or herself aware of the invitation to apply.

- 2.10 That said, the government considers that, in the interests of ensuring a fair and open competition, licensing authorities should be required to meet certain minimum criteria in publicising the invitation to apply. We have proposed that licensing authorities be required to advertise in the international casino trade press, as we consider it likely that experienced operators of casinos in both Great Britain and in overseas jurisdictions are likely to be prominent among those interested in applying for the new casino premises licences.
- 2.11 In many cases, it is likely that the casino will form just part of a much wider development. While the competition for the casino premises licence is not a public sector procurement exercise, the competition is analogous in some respects, and may well be of interest to some of the contractors who regularly monitor the Official Journal of the European Union.

Q2: Do you agree that the invitation to apply should be published as a minimum in a casino trade publication and the Official Journal of the European Union?

Timing of invitation to apply

- 2.12 As noted above, the government is mindful of the fact that the development of its casino policy has been followed keenly both nationally and internationally. It is aware that many casino operators and other companies based both in the United Kingdom and overseas will already be considering their options, and making plans to enter some or all of the competitions for the new casino premises licences. However, we are also conscious that, as part of the invitation to apply, licensing authorities will need to include certain information (discussed below) which might not be available currently, and it is important that all potentially interested parties have time to consider that information before deciding whether to make an application. It is also important to allow potentially interested parties who might not have been following policy developments so closely to develop their applications.
- 2.13 The government is keen to strike a balance between ensuring that all potentially interested parties have adequate time to prepare the strongest possible application, and enabling licensing authorities to progress competitions within a reasonable timeframe. It has, therefore, proposed that the closing date for applications should be set so as to give applicants at least three months from the date on which the invitation to apply is last publicised to prepare their applications. This is broadly comparable to the advance application period for converted casino premises licences.

Q3: Do you agree that the invitation must be publicised at least three months before the final date on which applications for the casino premises licence may be submitted?

Information that must be included in the invitation to apply

- 2.14 The outline process for the competition that is laid down in the Act is summarised in Paragraph 1.4 above. Local authorities will build on this outline in developing the detail of their own processes, in accordance with the Code of Practice (see below). The government considers that it is central to the transparency of the process that a summary of the process and an indicative timetable be included as part of the invitation to apply.
- 2.15 As with all applications for premises licences, licensing authorities will need to determine, at the first stage of the consideration process, whether the applications are consistent with the licensing objectives of the Act, and in particular those relating to the protection of children and other vulnerable people, and the prevention of gambling becoming a source of crime and disorder.
- 2.16 In the case of applications for the new categories of casino, licensing authorities will particularly want to satisfy themselves that the proposed premises would meet the relevant mandatory and default premises licence conditions, including those designed to ensure that:
- there are no entrances to the casino from other premises licensed under the Gambling Act 2005, or other premises used wholly or mainly by children;
 - the operator has proposed systems to ensure that it will comply with the Gambling Commission’s code of practice to prevent access by children, which will be a condition attached to the premises licence;
 - in the regional casino, the gambling area is not capable of being seen from any part of the premises to which children have access;
 - adequate non-gambling areas are provided, to ensure that people can take a break in areas where they are not exposed to gambling facilities;
 - ATMs are located in areas that require customers to stop gambling to use them.
- 2.17 The government believes that all potential operators of a new casino under the Act should be able to demonstrate that these minimum requirements will be met if they are granted a licence. Given the overriding importance it attaches to these protections, the government considers that it is important that any local benefits that a prospective operator may seek to demonstrate for the purposes of the second stage of the consideration process should not be allowed the influence the licensing authority’s objective assessment at the first stage of whether these minimum requirements have been met. The government is, therefore, proposing that no information which is only relevant to the second stage of the consideration process should be submitted with the initial application.
- 2.18 At the same time, it is clearly desirable, and in the interests of a transparent process, that all potentially interested applicants be clear from the outset what criteria the licensing authority will apply at the second stage of the consideration process. It would be unfair to expect an applicant to go to the expense of completing an

application, only for it to discover subsequently that the licensing authority was proposing Stage 2 criteria that it could not meet.

- 2.19 Licensing authorities would be required to make clear in their invitation to apply what criteria they will consider at Stage 2. However, they would also be required to make it clear in their invitation that no information which only relates to the second stage should be submitted with the initial application. Only those applicants that pass the Stage 1 “regulatory test” would subsequently be invited to submit information relating to the Stage 2 consideration.

Q4: Do you agree that it is important to separate the Stage 1 and Stage 2 considerations in the way proposed?

Q5: Do you agree with the information that the government proposes to require licensing authorities to include in their invitation to apply?

Code of practice

Summary of proposals

- 2.20 Paragraph 6 of Schedule 9 to the Act enables the Secretary of State to issue a code of practice about the procedure to be followed when making both the Stage 1 and 2 determinations, and what matters licensing authorities should have regard to in making those determinations.
- 2.21 As noted above, the government intends to give licensing authorities the widest possible discretion in determining the outcome of the competitions for the casino premises licences so that they can maximise the benefits accruing to their local area from the licensing of a casino. The government is, therefore, minded to say in the Code of Practice the minimum that is consistent with ensuring fair and open competitions, and that the views of local people are taken into account.
- 2.22 The government is, therefore proposing that the Code of Practice should:
- emphasise that licensing authorities must ensure that any competition for a casino premises licence is fair and open. In particular, licensing authorities must ensure that any existing relationship or arrangement they may have with any applicant does not affect the competition in such a way as to make it substantively unfair when judged against the provisions of the Act;
 - emphasise that licensing authorities must, for the purposes of the first stage of the competition, consider all applications in line with the normal premises licence procedures set down in, or prescribed under, Part 8 of the Act, and must not take into account any matters relating to the second stage of the consideration process which they would not ordinarily take into account when considering an application for a premises licence;
 - require licensing authorities:

- to invite all applicants that pass the first stage of the consideration procedure to participate in the second stage and, for that purpose, to submit information which will enable the licensing authority to assess what benefit the application will have for the authority's local area;
- to put in place, before invitations for competing applications are published, procedures to enable the licensing authority to enter into discussions at the second stage of the consideration process with individual applicants with a view to proposals being refined and potential benefits to the local area from those proposals being maximised;
- to put in place, before invitations for competing applications are published, arrangements to ensure that any prior agreements or arrangements that local authorities may have entered into do not, actually or apparently, prejudice either their ability to run a fair and open competition, or to ensure that all applicants have an equal opportunity to demonstrate, at the second stage, how their application will result in the greatest benefit to the local area;
- to have in place a clear protocol for the receipt and storage of information submitted during the second phase to ensure that confidentiality is maintained.
- remind licensing authorities that paragraph 5(3)(b) of Schedule 9 to the Act gives them the power to enter into agreements with prospective operators at the second stage, and that they may want to use this power to help maximise the potential benefits to their local area;
- require licensing authorities to ensure that the criteria that they will consider when determining the outcome of the second stage of the competition reflect local issues, concerns and priorities. These may include:
 - the protection of children and other vulnerable people from potential harm from gambling;
 - the employment and regeneration potentials of different proposals;
 - the design of the proposed developments;
 - the financial commitments by the developer to local projects;
 - the location of the proposed developments;
 - the range of other (non-casino) facilities offered as part of, or alongside, the development; and
 - any other matters.
- encourage licensing authorities to engage in active consultation with local people when developing these criteria, if they have not already done so;

- remind licensing authorities that Part 8 of the Act will apply to both the first and second stages of their consideration (with modifications, in the case of the first stage, provided in paragraph 4(2)(c) of Schedule 9).

Commentary

Fair and open competition

- 2.23 It has been clear since the national Policy Statement published in December 2004 that licensing authorities would be required to run fair and open competitions for casino premises licences. This requirement should come as no surprise to anyone.
- 2.24 Ministers have re-emphasised this point on the record in Parliament in response to a number of questions. The Gambling Commission's guidance to licensing authorities published in April 2006 advised licensing authorities to think carefully before entering into any agreements or arrangements with potential casino operators which might be perceived as affecting their ability to exercise their determination functions objectively and without having prejudged any of the issues.
- 2.25 The government understands that a number of licensing authorities may have entered into agreements or arrangements with individual operators in the past. The government is not party to any such agreements. The agreements are a matter for the licensing authority concerned, but any prior agreement does not override the duties placed on licensing authorities by the Gambling Act 2005, including by regulations and codes of practice made under that Act, to run fair and open competitions for the casino premises licences.
- 2.26 The government is also aware that a number of licensing authorities may have made applications to the Casino Advisory Panel having earmarked a single location as being suitable for a new casino. This again does not override the responsibility of licensing authorities to give all applications for the casino premises licence equal consideration on their own merits, even if they relate to other potential locations in their licensing area.
- 2.27 However, it is also important to note that licensing authorities may, when developing the criteria for the Stage 2 consideration quite legitimately come to the view that the development of a casino in a broad location in their licensing area would be of the greatest benefit to that area.

Q6: Do you have any comments relating to the requirement for licensing authorities to ensure that the competitions for the casino premises licences are fair and open?

Parallels with tender exercises

- 2.28 While the competitions for the premises licences are not tender exercises, they will share some of the characteristics of a tender exercise. Both involve a competitive bidding process. Licensing authorities will be under an obligation to secure the best deal possible for their local area, and to ensure that they run the competition in a fair and transparent way. Given that authorities will have extensive experience in running tender exercises, the government considers this a useful parallel.

2.29 The government does not propose to prescribe in great detail the way in which authorities should conduct Stage 2 of the consideration process. Local authorities will have their own ways of working and existing systems which it will be cost effective to adapt for the purposes of the casino premises licence competition. What is key is that:

- the process that the licensing authority proposes to follow is clearly set out from the start of the competition for all interested applicants;
- all interested applicants are treated fairly and, in particular, those that make it to the second stage of consideration must be given the same opportunity to demonstrate that they can best deliver against the authority's published Stage 2 criteria; and
- authorities have systems in place to maintain confidentiality throughout the Stage 2 consideration.

2.30 The government is, therefore, proposing to include in its Code of Practice minimum requirements that licensing authorities have in place systems to ensure that these objectives are delivered.

Q7: Do you agree that tender exercises provide a useful model for the Stage 2 consideration? Do you agree with the requirements that the government proposes to place on licensing authorities through the Code of Practice?

Developing the Stage 2 criteria

2.31 Paragraph 20 of the government's statement of national policy on casinos (reproduced above) suggested a number of criteria against which a licensing authority might want to make its Stage 2 consideration of competing applications. These broad criteria – particularly those relating to regeneration and employment - were also reflected in the Casino Advisory Panel's terms of reference. The government considers that it is only fair to all authorities that submitted proposals to the Panel, whether successful or unsuccessful, that these should continue to be the criteria against which licensing authorities judge the outcome of competitions for premises licences.

2.32 These criteria were intentionally broad, reflecting the government's view that local people are best placed to determine local needs and priorities. In many cases, local authorities consulted local people on their views on casinos, and what benefits they would like to see accruing to their local area from such a development, in developing their proposals to the Casino Advisory Panel. The government considers that this sort of active local consultation constitutes best practice, and all licensing authorities that have not already done so should undertake a similar exercise in fine-tuning the Stage 2 criteria prior to the publication of their invitation to apply.

2.33 It is important to note that all licensing authorities are required by section 349(7) of the Act to ensure that their statement of licensing policy includes the principles that they propose to apply in making determinations under paragraph 5 of Schedule 9. This means licensing authorities may need to consider revising their licensing policy statement in accordance with section 349(2) to reflect the Stage 2 criteria that they develop, prior to publishing their invitation to apply. This will involve a period of formal

consultation. The consultation that we are proposing to encourage licensing authorities to undertake in developing their Stage 2 criteria would be prior to, and in addition to, this formal requirement. It is important to note, however, that licensing authorities will not be required to undertake further consultation, over and above the formal requirements, if they have already undertaken active consultation locally during the course of developing their proposal to the Casino Advisory Panel.

Q8: Do you agree with the matters that licensing authorities should be required to consider when determining their Stage 2 criteria?

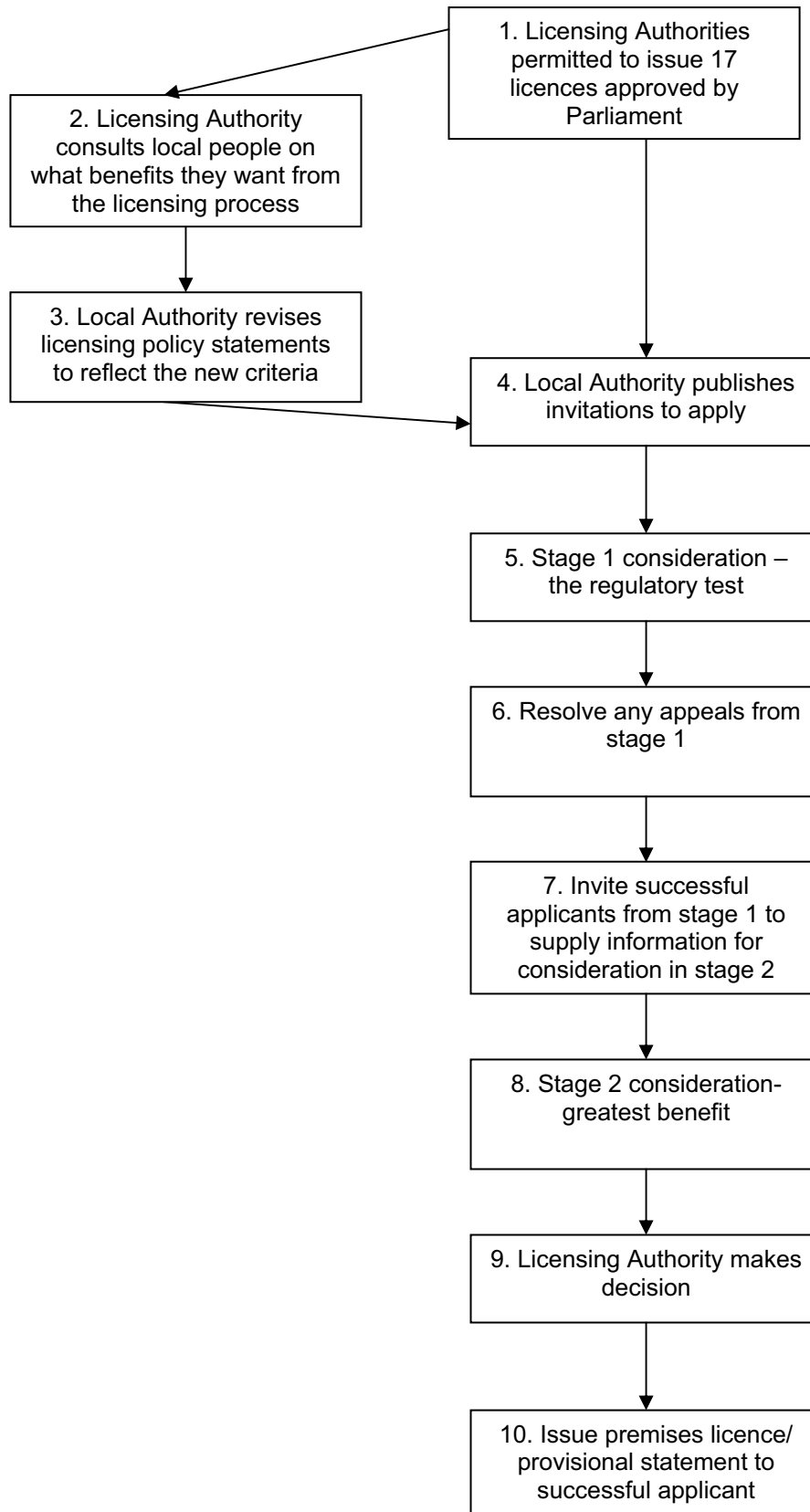
Q9: Do you agree that licensing authorities should be encouraged to engage in active consultation with local people when developing their Stage 2 criteria?

Part 8 of the Gambling Act 2005

2.34 Part 8 of the Gambling Act sets out the normal procedures that licensing authorities must follow when considering applications for premises licences under the Act. These procedures will apply at both stages of consideration of applications for casino premises licences (with modifications: see paragraphs 4(2)(c), 5(5) and 8 of Schedule 9 to the Act). This will mean, for example, that a licensing authority must give reasons for rejecting an application for a casino premises licence (whether at stage 1 or 2 of the consideration process), in the same way as when it rejects an application for a non-casino related premises licence. This will also mean that any statutory appeals by an applicant against rejection at Stage 1 will need to be resolved before licensing authorities can proceed to Stage 2. No appeal may be brought after the decision at Stage 2.

Q10: Do you agree that licensing authorities should be reminded in the Code of Practice that Part 8 of the Gambling Act will apply at both stages of consideration of applications for the new casino premises licences?

Application for Casino Premises Licence/Casino Provisional Statement – summary of process



Section 3: Consultation questions

Q1: Do you agree with the approach set out in paragraphs 2.1-2.4? Do you agree with the broad principles underpinning the government's approach set out in Paragraph 2.4?

Q2: Do you agree that the invitation to apply should be published as a minimum in a casino trade publication and the Official Journal of the European Union?

Q3: Do you agree that the invitation must be publicised at least three months before the final date on which applications for the casino premises licence may be submitted?

Q4: Do you agree that it is important to separate the Stage 1 and Stage 2 considerations in the way proposed?

Q5: Do you agree with the information that the government proposes to require licensing authorities to include in their invitation to apply?

Q6: Do you have any comments relating to the requirement for licensing authorities to ensure that the competitions for the casino premises licences are fair and open?

Q7: Do you agree that tender exercises provide a useful model for the Stage 2 consideration? Do you agree with the requirements that the government proposes to place on licensing authorities through the Code of Practice?

Q8: Do you agree with the matters that licensing authorities should be required to consider when determining their Stage 2 criteria?

Q9: Do you agree that licensing authorities should be encouraged to engage in active consultation with local people when developing their Stage 2 criteria?

Q10: Do you agree that licensing authorities should be reminded in the Code of Practice that Part 8 of the Gambling Act will apply at both stages of consideration of applications for the new casino premises licences?