

Consultation Report

Large Casino Section

Statement of Licensing Policy 2010 – 2012

Gambling Act 2005

Executive Summary

The Gambling Act 2005 (the Act) created a new system of licensing and regulation for commercial gambling in Great Britain. Within this regime local authorities were appointed as Licensing Authorities and became responsible for issuing premises licences to gambling premises such as casinos, bookmakers and amusement arcades.

In April 2008 Leeds City Council was awarded the right to issue a new style of casino licence. The Gambling Act and associated regulations set out the process the council and applicants must undertake before the large casino licence can be granted.

Under the Act the Licensing Authority must publish a statement of the principles that they propose to apply in exercising their functions under the Act. Leeds City Council's Statement of Licensing Policy for the Gambling Act 2005 was last consulted upon in 2009 and was published in January 2010. Licensing authorities are required to review and republish their policy every three years.

The council developed a new section to insert into the Statement of Licensing Policy in order to describe the principles it will apply when determining the large casino applications. The council has sought the views of residents and interested parties on the content of the section during a public consultation which ran from 9th May to 29th July 2011. The council developed an application pack which details the two stage process required by the legislation and the evaluation methodology to be used to determine which application would provide the best benefit to the city. The application pack was provided for comment between 4th and 29th July 2011.

The council received 13 responses to the public consultation. This report provides the council's response to the consultation and describes any changes made as a result of the comments received.

The policy will be taken through the approval process, being presented to Executive Board for referral to Scrutiny and Overview Panel with final approval by full council in January 2012.

Background information

The Gambling Act 2005 completely overhauled the regulation of commercial gambling in Great Britain and gave effect to the governments proposals to reform and modernise the law on gambling. Within the new regime the Gambling Commission became the national gambling regulator. The Commission is responsible for granting operating and personal licences for commercial gambling operators and personnel working in the industry. The Act set out different types of operating licence that cover the full range of commercial gambling activities conducted in Great Britain. It also made provision for the Commission to have powers of entry and inspection to regulate gambling, with safeguards for those subject to the powers.

As part of this licensing framework, licensing authorities have the power to licence gambling premises within their area, as well as undertaking functions in relation to lower stake gaming machines and clubs and miners' welfare institutes. The Act also provides for a system of temporary use notices. These authorise premises that are not licensed generally for gambling purposes to be used for certain types of equal chance gambling, for limited periods.

Local authorities can issue premises licences once they are notified that the applicant has secured operating licences from the Gambling Commission. However operators are able to apply for a provisional statement before they apply for their operating licence but they are not able to open their premises until they have successfully secured a premises licence.

The Gambling Act and Casinos

The Gambling Act 2005 changed the legislation governing the licensing of casinos significantly. Under the Act seventeen new casino licences were to be granted, each of which to be significantly larger than existing casinos. The licences are broken down as follows: one regional casino, eight large casinos, and eight small casinos. The DCMS formed a special Casino Advisory Panel (CAP) to recommend where the new casinos should be located.

In April 2008 Parliament approved the locations of eight small and eight large casinos in line with the CAPs original recommendations. Leeds was awarded the right to issue a large casino licence.

The Act describes the process the council and the applicant must complete before issuing a large casino licence. This includes:

- Updating the Statement of Licensing Policy to include a statement of the principles the council will apply when determining the casino applications.
- Advertisement of the "competition"
- A two stage application process:
 - Stage 1 follows the same process as for any other premises licence application under the Act
 - Stage 2 in which the council determines which of the competing applications would, in the authority's opinion, be likely if granted, to result in the greatest benefit to the authority's area
- At the conclusion of Stage 2 the council may enter into a written agreement with the applicant

Purpose of the consultation

The council has developed a new section to insert into the current Statement of Licensing Policy in order to describe the principles it will apply when determining the large casino applications.

As part of the Act, if the council amends the Statement of Licensing Policy it is required to consult with:

- a) the chief officer of police for the authority's area
- b) one or more persons who appear to the authority to represent the interests of person carrying on gambling businesses in the authority's area, and
- c) one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act.

The consultation methodology has been designed to provide a wide selection of the Leeds population with the opportunity to comment on the revised content. In addition comments are sought from the responsible authorities as well as a list of identified stakeholders such as organisations concerned with the social impact of gambling, faith groups, national bodies representing the gambling industry, plus representatives of local businesses.

Consultation Methodology

The consultation ran from 9th May to 29th July 2011. This was a twelve week consultation. The HM Government Code of Practice on Consultation specifies that a 12 week consultation is good practice.

The consultation has been advertised by:

- A mailing to an extensive list of identified stakeholders. This includes existing licence holders, national trade associations, responsible authorities, organisations concerned with the social impact of gambling, MPs, parish councils, and faith groups.
- A colour poster in all libraries, one stop shops and leisure centres.
- A news items to appear on the leeds.gov.uk homepage on the first day of the consultation.
- This report to be uploaded to www.leeds.gov.uk/gpc where it will be possible to access an online form to make responses.
- A press release will be issued by the press office advertising the consultation.

Application Pack

Alongside the policy, the council developed a detailed application pack which applicants can use to assist them in applying for the large casino licence. This pack provides details on how to make an application, the two-stage process, the evaluation at second stage, details of the Advisory Panel and other information.

The council ran a four week non-statutory consultation on the contents of the application pack to the industry at the end of June 2011. This consultation was placed on the website at www.leeds.gov.uk/gpc and trade representatives were informed in writing.

Public consultation themes

The council received 14 responses to the consultation on the large casino section of the Gambling Act 2005 Statement of Licensing Policy and the application pack (appendix 1).

There were a number of repeating themes:

Debt

Web response 6042061

Written response 010

Web response 6042061 linked casinos with problem gambling and felt strongly that Leeds should not go ahead with the Large Casino application process. There is a better way of making our economy grow than by providing a casino.

Leeds Citizens Advice Bureau in written response 010 describe their concerns about the possible impact of a large casino in the city especially in relation to an increase in the number of people with gambling problems in the Leeds area.

Response

This consultation considers the principles that will be used to determine how the licence will be granted rather than to determine if Leeds should grant a casino licence. Notwithstanding this, the Council has the powers to pass a no casino resolution if the benefits do not meet the aspirations for the local area.

At Stage 2 of the application process each applicant will be required to undertake a detailed equality and health impact assessment to detail the impact of their proposals and to outline a comprehensive mitigation strategy for any negative effects caused by the casino. The mitigation measures will form part of a contractual arrangement, incurring a penalty should those commitments not be met.

The Social Inclusion Fund - funded as a consequence of the casino - will also help deliver projects that help mitigate the affects of gambling and financial, economic and social exclusion.

Action

Amend 16.48 in the Statement of Licensing Policy and amend the Stage 2 Evaluation Methodology Criteria 2.3 in the application pack to strengthen the commitment to mitigating negative effects.

Locality to regeneration areas/location of casino

Web response 6045262, 6045339

Written response 004, 005, 008, 009

A number of respondents were concerned that the Large Casino may be situated in or close to a regeneration area and that this should not be seen as good for that area or a social good.

Response

All applications must pass through Stage 1 of the application process. This stage follows the same regulatory checks that every gambling licence application goes through. Along with other checks, the application is evaluated against the licensing objectives, which 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.

At Stage 2 of the application process all applicants will be required to provide a detailed social and health impact assessment, along with mitigation for their proposals. This must include a comprehensive evaluation of the location of the proposed venue. This will be evaluated alongside other criteria.

The Council will not have a preference for a large casino location. In the modern casino market, it is not expected that large casino applications will be placed in housing areas.

Action

Amend 16.48 in the Statement of Licensing Policy and amend the Stage 2 Evaluation Methodology Criteria 2.3 in the application pack to strengthen the commitment to mitigating negative effects.

Social costs

Web response 6045262, 6045339

Written response 004, 005, 006, 007, 008, 009

There was general concern that the council has concentrated on the benefits of a casino, and that there is not enough emphasis placed on potential harm, and ways of mitigating that harm.

A number of respondents commented that the licence should be awarded on the basis of demonstrating how the negative impacts of a casino would be mitigated as well as demonstrating the intended benefits.

There were comments that the Social Inclusion Fund (funded by the casino operator) should indicate that this will be used to mitigate the social costs.

Response

Stage 2 of the application process, as dictated by legislation, is an assessment of which application would, if granted, provide the greatest benefit to the local authority area. Therefore, the Statement of Licensing Policy and Stage 2 Application Pack have been developed to evaluate the benefits that will arise from the casino process.

The Stage 2 evaluation considers negative effects in a number of ways:

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

In addition, the council will monitor the social impact of the casino through a toolkit developed by leading academics. This will be used to ensure the impact of the casino on the local area will be closely scrutinised independently of the licensed operator.

Applicants will be asked to outline and commit to mitigation measures as part of their stage 2 application. The Social Inclusion Fund will be used to deliver projects that assist the economic and financial inclusion agenda. It is anticipated that some aspects of the Social Inclusion Fund will be used to mitigate social costs brought about by the casino, above and beyond the commitments from operators.

Action

Amend 16.48 in the Statement of Licensing Policy and amend the Stage 2 Evaluation Methodology Criteria 2.3 in the application pack to strengthen the commitment to mitigating negative effects.

Economic benefits

Written response 006

The response from the Diocese of Ripon and Leeds commented specifically that applicants should be required to demonstrate the local economic benefits as well as those for the whole city.

Response

When determining which application should be granted the licence, the council must judge which application, if granted would provide the greatest benefit to the local authority area. This is the test prescribed in the legislation and underpins the evaluation process. During Stage 2, each application will be evaluated against a set criteria which has been developed to test the benefit to the area, not just the area directly impacted by the location of the casino. However applicants will be expected to outline their vision and strategy for the development, which includes strategies for maximising jobs for those living in areas nearby to the casino. Raising the amount of local benefits (e.g. benefits from those nearby to the site) will be encouraged and monitored.

Action

No change.

Health Impacts

Written response 007

NHS Leeds raised the concern that the policy does not acknowledge the potential negative impact that a large casino development could have. Their comprehensive response describes the potential health impacts associated with gambling, problem gambling and casinos and goes on to make a number of recommendations:

- ▶ Assessment criteria should acknowledge the impact of health within the each of the existing headings (Financial, Social & Economic) but ideally with a separate heading entitled 'Health Impacts'.
- ▶ Applicants should be encouraged and assessed upon their strategies and safeguards around minimising the negative impact to individual and community health.

- ▶ Provide flyer/campaign specific to the Leeds area assists patrons to recognise the early signs of gambling addiction and how to access help and support.
- ▶ Provide information about mental health services and self help materials in the entrance areas and offer training to the workforce (e.g. Mental Health First Aid).
- ▶ Provide information about debt advice within the casino and work with Leeds Credit Union to consider encouraging Casino users to join LCU to encourage financial capability through savings provision.
- ▶ Ensure information about alcohol dependency and brief intervention support is available.
- ▶ Maximise the social benefits of having casino as meeting point by providing a venue for social interaction that does not involve gambling, for example, a venue for local community groups to run healthy living activities at a reduced cost.
- ▶ Ensure that Positive Activities for Young People (PAYP) are available in the local area which will educate, stimulate and raise aspirations of local young people.
- ▶ Ensure that a proportionate quota of jobs within the casino are 'ring fenced' for local people.
- ▶ Consider schemes that promote employment in the casino to vulnerable people who stand to gain the most from employment, e.g. Long term unemployed or people with mental health problems.
- ▶ The document should present a more neutral position in relation to the impacts of a Large Casino on Leeds rather than only including positive impacts a casino could bring in key LCC documentation. LCC should clearly include the potential negative impacts of a Large Casino on health.

Response

The licensing process is undertaken in two stages. Stage 1 is the same regulatory process undertaken by all premises licence applicants. Stage 2, as dictated by legislation, is an assessment of which application would, if granted, provide the greatest benefit to the local authority area. Therefore, the Statement of Licensing Policy and Stage 2 Application Pack have been developed to evaluate the benefits that will arise from the casino process.

The Stage 2 evaluation considers negative effects in a number of ways:

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

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

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

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

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

The large casino licence operator will fund a Social Inclusion Fund which will support projects that help the financial and economic inclusion agenda (which will include work on health) and may be used to fund such activities away from the boundary of the casino.

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

The Gambling Act 2005 requires all large casinos to provide non-gambling facilities.

Action

Amend 16.48 in the Statement of Licensing Policy and amend the Stage 2 Evaluation Methodology Criteria 2.3 in the application pack to strengthen the commitment to mitigating negative effects. Include an extra paragraph in the Policy as follows:

The applicants must demonstrate a firm commitment to mitigation of negative impacts and ensuring residents' safety and health is not put at risk by the large casino. In particular, attention should be focussed on mitigation for the most vulnerable in society and for those living closest to the proposed casino and applicants must ensure that problem gambling issues do not increase in the Leeds area.

Applicants must provide an assessment of the social, equality and health impacts of their proposed casino developments and provide mitigation plans to minimise and eliminate negative impacts. Applicants should also commit to supporting the ongoing monitoring of negative social, equality and health impacts of the large casino and make contractual commitments in the schedule 9 agreement on all mitigation measures proposed.

Include recommendations in the stage 2 application pack as a suggested benefit or mitigation applicants may propose. The council does not intend to prescribe the benefits applicants should offer but will encourage innovative proposals on mitigation.

Written response 011

Joelson Wilson, on behalf of Rank, provided a comprehensive consultation response.

No Casino Resolution

We note the reference at paragraph 16.14 to the power of Local Authority to pass a “no casino” resolution under s.166 of GA 2005. The Policy indicates that the Local Authority may choose to exercise the “no casino” resolution option in circumstances either where there is only one application for a large casino premises licence or where there is more than one application “those applications fail to meet the Council’s aspirations for the benefit for the Leeds Metropolitan Area”.

It is Rank contention that a “no casino” resolution may only be adopted in circumstances where there is only one successful applicant at the conclusion of stage 1 of the competition. Ranks reason for this assertion arises from Schedule 9 to GA 2005. Paragraph 4 of Schedule 9 provides that, at the first stage of the bidding process, the Licensing Authority shall consider in respect of each application whether they would grant such application under s.163 of GA 2005. Paragraph 5 of Schedule 9 then provides that if the Licensing Authority determines under paragraph 4 that they would grant a number of competing applications, then they shall determine which of those applications to grant (see paragraph 5(2) of schedule 9) and in reaching that decision they shall determine which of the competing applications would, in their opinion, be likely, if granted, to result in the greatest benefit to the Authority’s area (see paragraph 5(3) of Schedule 9).

It therefore follows that, if more than one bid is successful at Stage 1, the Licensing Authority is obliged to enter Stage 2 of the application process and is obliged to consider which of the competing applications would in their opinion be likely, if granted, to result in the greatest benefit to the Authority’s area and to grant a licence accordingly. These requirements are mandatory. It appears to follow that, in the circumstances, a “no casino” resolution would be in conflict with that statutory provisions which are triggered by a “provisional” decision to grant more than one licence at Stage 1. The power to pass a “no casino” resolution by virtue of s.166 of GA 2005 will only arise once the application process has commenced, if only one bid emerges as successful at the end of Stage 1, since there is no mandatory requirement imposed by GA 2005 to grant a licence if there is only one successful applicant at Stage 1.

Response

The Council does not agree with this analysis of the legislation. The council believes that the ability to pass a ‘no casino’ resolution is a general power within the statute and not dependent upon the provisions of schedule 9, upon the council having the ability to licence a casino at all or upon starting a licensing process pursuant to that ability under part 8 or schedule 9. It follows that the council believes it retains the right to pass a ‘no casino’ resolution at any stage of the process.

Action

No action

Rank notes at point 16.40 that payment will be required “upon the signing of any agreements” and at point 6.46 of the application pack under the heading “Finalisation of Schedule 9 Agreement” “upon the signing of the Schedule 9 Agreement” and payment will be taken “once the Committee make their final decision”. Rank believes that the payment falls due at the conclusion of Stage 2 and not at the conclusion of the process, that is when the premises licence is approved in circumstances where a provisional statement has been granted initially. Rank would be grateful for clarification on this point. Further, in circumstances where the development cannot proceed because for example, planning permission was not subsequently granted, would the payment which is required “upon the signing of the Schedule 9 Agreement” be forfeited or refunded?

Response

The payment will be received upon the schedule 9 being signed regardless of whether it is a provisional or full premises licence. The up front payment is non-refundable and is a one off payment made upon the end of the process and once the schedule 9 is signed - whether giving effect to the provisional statement or premises licence. No other up front payment will be considered in the evaluation. It is for the applicant to determine if they want to offer the benefit sought or not.

If the development does not arise, the council requires that the provisional licence holder must provide payments for non-delivery and the applicant will not be refunded for any upfront payment. It is a commercial risk applicants must consider. The council needs commitment to deliver any development within 5 years in all instances, along with payments for non-delivery.

Net economic impact will score 14% in the evaluation and a new development has a good chance of scoring higher marks due to the economic impacts from the construction.

Action

No action

At 16.5.2 Rank would be grateful for clarification as to the distinction the Council seeks to make between “contractual obligations” as opposed to “merely damages for non-delivery”.

Response

The council requires a contractual commitment to secure benefits for the local area in the schedule 9 agreement. The council requires payments for non-delivery of said benefits. An application that commits to both will score more highly. This is made clear in the application pack.

Action

Clarify this paragraph in the policy as follows:

The application pack will include a template agreement under paragraph 5(3)(b) of Schedule 9 to the 2005 Act ('a schedule 9 agreement'). Such an agreement will be negotiated with the applicants during the stage 2 evaluation process. This agreement will include a list of the benefits proposed, along with delivery targets and details of the penalties for non-delivery. Applications where the benefits, including delivery of the development itself, are made subject of contractual obligation and where the applicant

provides damages for non delivery are likely to receive greater weight in the evaluation process.

In circumstances where the Local Authority is considering a bid from a proposed site which is part of a wider development and not one from an existing site, Rank seeks to clarify point 16.53. Development sites, as the point accepts, will involve certain aspects outside the control of the operator. By contrast, an existing site will not face such constraint. It is proposed that the reference to “development outside the control of the applicant will not be considered” means to favour existing sites, either by suggesting a development site, despite possible regenerative benefits, will not be entertained or because an existing site can guarantee delivery in a way that a proposed site may not?

Response

Page 7 to 14 of the Stage 2 Evaluation Methodology clarifies the process. The respondent infers that development sites would be less favoured than existing sites. However this is not the case. The evaluation methodology was specifically developed to ensure that no particular type of development , would be favoured more highly than another.

Action

Clarify this paragraph in the policy as follows:

The council is aware that the casino application may form part of a wider development proposal or be a new development. A casino development with firm contractual commitment to be fully operational within a 5 year timescale with proof of funding and with meaningful payment proposed for late or non delivery will score more highly than a casino development that is not supported by a contractual commitment and/or meaningful payments for late or non delivery and/or proof of funding. Any part of a wider development proposal which is not directly required for the delivery of the casino will score more highly if the applicant commits to completing the wider development within a 5 year timescale, proposes meaningful payment for late or non delivery and provides proof of funding. These commitments will be contained within the schedule 9 agreement and the five year timescale will start from the signing of the schedule 9 agreement. Applicants must demonstrate that all development proposals are credible.

DRAFT APPLICATION PACK

On page 4.4, there is further reference to the “no casino” resolution under s.166 of GA 2005 and the same comments apply as made in relation to the Statement of Licensing Policy as mentioned previously.

Response

As before

Action

As before

At page 6.3 it is stated that “applicants must not publicise their plans or make public statements about their involvement in the Stage 2 process”. Although Rank appreciates the confidential nature of the process and the requirement to keep all details of Stage 2 confidential, involvement in Stage 2 would be a matter for public record and Rank seeks clarification that this point does not seek to prohibit disclosure about participation in the process at Stage 2 by contrast with the content of the proceedings.

Response

To clarify, Stage 1 applications are a matter of public record as all premises licence applications are available for public inspection. However the DCMS Code of Practice: Determinations under Paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005 relating to Large and Small Casinos, places a number of obligations on the licensing authority to maintain confidentiality:

5.4.5. A licensing authority may not, during the second stage, discuss the details of a person’s application with the other competing applicants without the person’s permission.

5.4.6. A licensing authority must put in place a protocol governing the storage of confidential information submitted to them during the second stage, so as to maintain the confidentiality of that information.

It is desirable that discussions applicants may have with the council at Stage 2 will remain confidential although the council does appreciate that there is no legal or statutory requirement for applicants to maintain confidentiality about their Stage 2 application.

Action

Amend page 6-3 accordingly.

Rank notes that it is currently intended that only 5 representatives from each applicant company will be permitted to attend the hearing before the Advisory Panel. Rank suggests that no limit is placed on those who might be able to attend the hearing. Rank does not suggest that any presentation should involve more than 5 people in total, but would be keen to have representatives in attendance who would be able to assist the Panel as matters arose, since this is the only oral presentation proposed under the consultation document.

Response

It should be noted that the council does not intend to hold a hearing at Stage 2. The Advisory Panel will meet to discuss the applications in order to provide an expert evaluation of the bids for the Licensing Committee. This evaluation process will include dialogue sessions where the Advisory Panel will ask applicants to clarify or enhance their bid in order to maximise the benefits for the city. The application pack describes the process. The reference to 5 representatives refers to the dialogue sessions where the Advisory Panel would permit 5 attendees at any one dialogue session.

Action

No action

On page 6.6 under the heading "Licensing Committee Stage" the policy states that "applicants will not be permitted to present to the Licensing Committee". Rank should be grateful for clarification in relation to the omission of any reference to hearings at Stage 2 of the process, particularly since it is envisaged that conditions will be attached to any licence during Stage 2. This is made clear at point 6 of the introduction of the draft agreement, where it is stated that "the parties acknowledge that the licence/provisional statement will contain a condition attached to the licence/provisional statement under s.169 of the Act so as to give effect to the Licensees obligations contained in this agreement".

SI Number 173 of 2007 ("the Hearing Regulations") applies to proceedings of the Licensing Committee in the exercise of its functions under GA 2005 and a hearing complaint with those regulations is required when the Licensing Authority intends to impose conditions on a licence under GA 2005 s.169. Rank would be grateful to receive clarification as to how it is proposed to impose such conditions without a hearing before the Licensing Committee.

Response

It is clear that Part 8 of the casino licensing procedure is to apply to casino licensing applications at Stage 1. This is expressly stated in Schedule 9 paragraph 4(1)(c) of the Gambling Act 2005 and in paragraph 4.1 of the DCMS Code of Practice.

It is also clear that the procedures in Part 8 of the Act do not apply to Stage 2 of the process. Rather, Schedule 9 of the Act and section 5 of the Code of Practice leave the procedure at Stage 2 to be decided by the licensing authority, subject to the minimum requirements set out in the DCMS Code of Practice. The references to Part 8 provisions in Schedule 9 do not concern the process of determination, merely its consequences.

With regards to the conditions to be attached to the licence, these will be decided at Stage 1.

The single exception is any condition to be attached under Schedule 9 paragraph 5(3)(c). Any difference between the authority and the applicant as to this condition will have been explored during the dialogue process at Stage 2 so that when the council comes to make its final decision as to which application offers the greatest benefit the council will have before it the applicant's proposed written agreement and condition. Based on that material, it will then decide which is the winning applicant. The reference to section 169 in Schedule 9 paragraph 5(3)(c) was not intended to import the requirement for a hearing in section 162. Nevertheless, as a precautionary measure, the authority will invite the winning applicant to waive any entitlement to a hearing prior to the grant.

Action

No action

Sub-criteria 1.1 at page 7.9 establishes the criterion that the benefits and impacts will be assessed over a 10 year period commencing on 1st December 2012. In cases where sites are to be developed, if the development is not completed for say, 18 months to 2 years, this could provide an advantage to the potential operator of an existing site. Rank suggests that the assessment should commence from the commencement of trade of any new build.

Response

The evaluation period is from the signing of the schedule 9 agreement and not once the casino is operational. There is no advantage to an existing site as the approach does not dictate the form of payment. For example, the methodology does not state that the payment must only be a % of gaming yield of an operational large casino. Rather it says the payments can be a mixture of a upfront lump sum payment, an annual underwritten payment and an annual variable payment (see page 7-9 of the Stage 2 Evaluation Methodology). There is nothing stopping an applicant making an annual underwritten payment whilst the casino is in construction.

Furthermore, it is made clear in 1.1.4 that payments throughout the duration of the schedule 9 (which is beyond 10 years) will form part of the evaluation. The level of financial benefits will also be evaluated in 3.1, which will include an evaluation of financial benefit beyond the 10 year NPV period. Therefore, for the avoidance of doubt, it should be noted that applicants are expected to provide financial benefits in perpetuity and all financial payment will be considered in the evaluation.

Action

No action

At page 7.10 Rank would be grateful for clarification of weighting assessment. Rank has assumed that the weighted score is calculated by multiplying the mark out of 10 score by the appropriate factor eg. Where the weighted score is out of 80, the mark out of 10 score is multiplied by 8.

Response

The weighting for Criteria 1.1.1, 1.1.2. 1.1.3 is made clear on pages 7-3 and 7-4 - which is a pro-rata assessment. Rank assumes correctly that this is how weighted scores are calculated.

Action

No action

At paragraph 7.19 the reference to planning permission is not qualified in the way that it is at page 7.1 under the heading "background information". Rank suggested that the reference at page 7.19 should be qualified for the avoidance of doubt.

Response

Agreed.

Action

Amend 7.19 in the Stage 2 Evaluation Methodology.

DRAFT AGREEMENT UNDER SCHEDULE 9 OF THE GA 2005

At "Introduction Point (6)" of the draft agreement it states – "the parties acknowledge that the licence/provisional statement will contain a condition attached to the licence/provisional statement under s.169 of the Act so as to give effect to the Licensees obligations contained in this agreement".

And at Clause 6.3 – "the parties acknowledge that a variation of this agreement shall only have effect if it is accompanied by a variation of the condition which is attached to the licence/provisional statement under s.169 of the Act, such variation being under s.187 of the Act, as is specified in paragraph 7(2)(c) of Schedule 9 of the Act. The same comments apply in relation to the imposition of conditions as at point 8 of this letter.
licensing

Response

See before

Action

See before

FINAL DETERMINATION

Rank would welcome confirmation that the same Licensing Committee members will consider and determine all applications at Stage 2.

Response

The Licensing Committee comprises of 15 members all appointed by full Council, all of whom will be trained. The quorum for the Licensing Committee is 5 members. It is currently expected that the determination will be made by the full Licensing Committee and not by a sub committee however that is a matter for the Licensing Committee to determine and no guarantees can be given as to the numbers of Councillors who will make the decision or whether it is to be full Committee or a sub committee.

The Stage 2 determination may be undertaken over several days and will be influenced by the number of applications at stage 2. It is expected to include a 'minded to grant' decision followed by confirmation of grant. It is expected that only members who have been present throughout the evaluation process of all applications will be involved in the 'minded to grant' decision.

Action

No action.

PLANS

Rank would be grateful if you could confirm the procedure should the layout drawings have to be altered by reasons beyond their control, during Stages 1 and 2. As you will appreciate, in the normal course of events in relation to a development site, a developer, separate and distinct from the operator of the gaming licence, will be responsible for building the premises to a certain stage. On completion of the "shell" of the building, it is then handed over to the operator who fits out the internal building to its own requirements. Therefore, for some considerable time, the final layout of the premises is a matter which is outside the absolute control of the operator. Clearly, any alterations are kept to a minimum, not least because otherwise considerable costs can be involved. However, if alterations are necessary, which as indicated, would be out of the control of the operator, Rank would be grateful for details as to the procedure to be followed at Stage 2 vis a vis the production of plans, in such circumstances.

Response

The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulation 2007 place a requirement on applicants to provide plans with a specific level of detail. This requirement is placed on both applicants for premises licences and provisional statements.

The council will not be able to accept altered plans after the completion of Stage 1 as this would lead to plans being assessed at Stage 2 that had not been available for consultation during Stage 1. Should an applicant wish to vary the plans after the completion of Stage 2, and the grant of the licence/provisional statement, they can do so in accordance with the Act.

Action

No action.