

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.

Changes in red

Large Casino

Background

- 16.5 The Act introduces three new categories of casino; one regional casino, eight large casinos and eight small casinos. In 2006 the council submitted a proposal for a regional and large casino to the Casino Advisory Panel.
- 16.6 On 15th May 2008 the Categories of Casino Regulation 2008 and the Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008 was approved. This specified which licensing authorities could issue premises licences for large and small casinos. Leeds City Council was authorised to issue a large casino premises licence.
- 16.7 On 26th February 2008 the Secretary of State for Culture, Media and Sport issued the Code of Practice on Determinations Relating to Large and Small Casinos (Code of Practice). The council will comply with this Code which sets out:
- a. the procedure to be followed in making any determinations required under Paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005 and
 - b. matters to which the Licensing Authority should have regard in making these determinations.
- 16.8 The council recognises that applicants may either apply for a casino premises licence or a provisional statement. As for all premises licences, applicants for a casino premises licence must fulfil certain criteria in that they must:
- a. hold or have applied for an operating licence from the Gambling Commission; and
 - b. have the right to occupy the premises in question.
- 16.9 Should an applicant be unable to meet these two criteria they should apply for a provisional statement.
- 16.10 Unless otherwise specified, any reference to the application and procedures for a premises licence for a casino in the following parts of this section will also include the application and procedures for a provisional statement for a casino.
- 16.11 Where a provisional statement application is successful, the council may limit the period of time for which the statement will have effect. This period may be extended if the applicant so applies.
- 16.12 The council will ensure that any pre-existing contract, arrangement or other relationship with a company or individual does not affect the procedure for assessing applications so as to make it unfair or perceived to be unfair to any applicant.
- 16.13 In making a decision on both stages the council will take heed of any current Codes of Practice, current Regulations and guidance issued by the Secretary of State for the Department of Culture, Media and Sport and the Gambling Commission.

- 16.14 The council has not passed a “no casino” resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. It may choose to exercise this option should there be only one application for a large casino premises licence or should, where there is more than one application, those applications fail to meet the council’s aspirations for benefit for the Leeds metropolitan area. Should the council decide in the future to pass such a resolution, it will update this policy with details of that resolution and any such decision will be made by full Council.
- 16.15 As per Part 8, Section 210 of the Gambling Act 2005 the council will not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building and any licensing decision will not constrain any later decision by the council under the law relating to planning or building.
- 16.16 The council does not have a preferred location for the new large casino. Applicants can submit proposals for any site or location within the Leeds metropolitan area and each will be judged on its own individual merits.

Application Process

Stage 1

- 16.17 The council will publish an invitation calling for applications. This invitation will be published in a trade newspaper, journal or similar publication. It will state the latest date the application must be made and the place from which a person may obtain an application pack.
- 16.18 The part of the application pack which relates to stage 1 will include, as a minimum, the following:
- Guidance for applicants
 - Application form for Stage 1
 - Example notices
- 16.19 With regard to stage 1 of the application process, the general principles as stated in Part C of this gambling policy will apply to all applications.
- 16.20 At stage 1 the Licensing Committee or sub-committee, will determine, if there are valid representations, which applications would be granted if they were able to grant more than one application.
- 16.21 At stage 1, the council will not consider whether any of the applications is more deserving of being granted.

Stage 2

- 16.22 Should more than one applicant pass through stage 1, the process will proceed to the second stage with each successful applicant being invited to submit information about how their application would, if granted, benefit the area.
- 16.23 The part of the application pack which relates to stage 2 will include, as a minimum, the following:
- Stage 2 evaluation methodology, including scoring matrix
 - Details of current Licensing Committee
 - Details of the Advisory Panel
 - Terms of reference for Advisory Panel

- Example Schedule 9 agreement
- Glossary
- Vision for Leeds 2011 to 2030

16.24 At stage 2, the procedure will follow the DCMS Code of Practice. However, the Code leaves individual councils to determine the detail of their own procedure.

16.25 The council will not bear any abortive costs of the unsuccessful applicants and their participation in all phases of the licence process is conducted entirely at the applicants risk.

Advisory Panel

16.26 It is recognised that the Licensing Committee does not necessarily have specialised expertise required to fully evaluate each application. It will seek professional expertise from officers of the council. Where this expertise is not available, it may seek independent expertise from outside the council.

16.27 For this purpose, the Licensing Committee will appoint a non-statutory panel to assist it in the evaluation of the stage 2 application process. This panel will be called the "Advisory Panel". The Advisory Panel will evaluate each application using the evaluation methodology and scoring provided in the application pack.

16.28 To ensure there are no conflicts of interest, applicants will be provided with a list of Advisory Panel members. Where objections are made, it will be necessary to give details of the substance of such objection. These objections will be considered by the Licensing Committee before the evaluation of stage 2 applications commence.

16.29 The Advisory Panel will engage in discussions with each second stage applicant with a view to the particulars of an application being refined, supplemented or otherwise altered so as to maximise the benefits to the Leeds metropolitan area that would result from it (were it granted).

16.30 The Advisory Panel will report its findings to the Licensing Committee. The report will be made available to the applicant before being submitted to ensure that the information provided within it is accurate. Should the applicant disagree with the evaluation, this will be noted and reported to the Licensing Committee, together with any necessary changes to the Advisory Panel's report.

16.31 The Licensing Committee will consider all the applications at Stage 2, and the report of the Advisory Panel. They will evaluate the proposals, in line with the principles below and determine which application, if granted, is likely to result in the greatest benefit to the area. This will involve an evaluation both of the benefits and the likelihood of their delivery.

16.32 The Licensing Committee will instruct officers to complete negotiations on any written agreements made under Paragraph 5(3)(b) of Schedule 9 of the Act. Once the negotiations have been completed officers will report to Licensing Committee who will then grant the licence to the successful applicant and reject the remaining applications.

- 16.33 In line with paragraph 5.7.4 of the Code of Practice, in determining the principles the council intends to apply in making any determination for a casino premises licence, the council has had specific regard to the following:
- a. The financial and other contribution a second stage applicant proposes to make to the Leeds metropolitan area,
 - b. The likely effects of an application on employment, the local economy and regeneration within the authority's area,
 - c. Whether, and the extent to which, the benefits offered are pursuant to an agreement under paragraph 5(3)(b) of Schedule 9 or otherwise.
- 16.34 In line with paragraph 3.3 of the Code of Practice, in determining the principles the council intend to apply at Stage 2, it disregarded the existence of any contract, arrangement or other relationship already in place; and will
- put in place arrangements to ensure that any such contract, arrangement or other relationship does not, actually or apparently, prejudice its ability to conduct the procedure fairly; and will
 - prepare a register of interests disclosing their interest in any contract, arrangement or other relationship with an applicant or a person connected or associated with an applicant.

Principles

16.35 At stage 2 the applicant will be required to state and demonstrate the benefit that they can bring to Leeds metropolitan area.

16.36 The council will seek to determine the greatest benefit through the following principles:

- Financial** To seek to maximise the financial return to the council.
- Social** To use any financial return accrued to facilitate the delivery of programmes and projects that support the Council's social and economic inclusion agenda, for the benefit of the Leeds metropolitan area.
- Economic** To secure a positive and significant economic impact for the local economy through the provision of a Large Casino in Leeds.

Evaluation Criteria

- 16.37 The council will publish a detailed evaluation methodology, which includes the information applicants are required to supply in order to support their application, and the weight that will be placed on each criterion. This evaluation methodology will be included in the application pack.
- 16.38 Applicants should carefully examine the evaluation methodology and tailor their application accordingly to ensure that they maximise benefits in accordance with this methodology.

16.39 In line with paragraph 5.7.4 of the Code of Practice, and the principles stated at 16.37 of this policy, the council has selected the following criteria which they will use to evaluate and score applications:

- Financial Contribution** This criterion relates to 16.33a and the first and second principles
- Socio-economic** This criterion relates to 16.33b and the second and third principles
- Risk and deliverability** This criterion relates to 16.33c and all three principles

Financial Contribution

- 16.40 The council is seeking to identify and quantify the level of financial contribution that could be secured for the Leeds metropolitan area. It is expected that the contribution will comprise a mixture of annual payments received from the applicant and a lump sum payable upon signing of any agreements and on specified dates and/or events thereafter.
- 16.41 The financial contribution will be used by the council to establish and maintain the council administered Social Inclusion Fund (SIF) which will facilitate the delivery of programmes and projects that support the council's social and economic inclusion agenda, for the benefit of the Leeds metropolitan area.
- 16.42 The financial contribution will be evaluated in terms of its ability to fund a credible and sustainable SIF. As such a mixture of upfront and annual payments is required.
- 16.43 The scoring of financial contributions will be weighted as follows:

1.0	1.0 Financial Contribution	33%
1.1	Net Present Value of total financial offer	
1.2	Upfront capital payment paid to the Council on signature of the Schedule 9 Agreement	
1.3	Net Present Value of annual cash sum offer	
1.4	Credibility of financial assumptions and offer	

16.44 Further detail including the information required, its format and how the submission will be evaluated can be found in the evaluation methodology included in the stage 2 application pack.

Socio-economic

- 16.45 The council is seeking to identify and quantify the level of expected net socio-economic benefits that could be secured for the Leeds metropolitan area based on the projected gross levels applicants believe their proposals will generate.
- 16.46 The council will expect to see that the applicant has tailored its proposals specifically to the requirements of Leeds through research and detailed assessment of the physical, social and economic position as outlined in its vision documents. These documents will be made available in the stage 2 application pack.

- 16.47 Applicants should have regard to the proposed location of the premises, with regard to meeting the licensing objective which seeks to protect children and vulnerable persons from being harmed or exploited by gambling. Applicants will be asked to provide information related to the area in which their proposed developed is situated in their strategy and vision documents.
- 16.48 Applicants will be asked to provide information on how their development will impact on employment and training, including amongst others, graduate training, NEETs and vocational qualifications as well as opportunities for Leeds businesses and the local supply chain.

New paragraph

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

16.50 The scoring of the socio-economic benefits will be weighted as follows:

2.0 Socio-economic	34%
2.1 Strategy and vision for proposed development	
2.2 Economic Benefits (Gross):	
- Net contribution to local economy (including direct employment and GVA)	
- Credibility of economic assumptions	
2.3 Net social impacts	

16.51 Further detail including the information required, its format, data requirements and how the submission will be evaluated can be found in the evaluation methodology included in the stage 2 application pack.

Risk and deliverability

- 16.52 At stage 2 the council will assess the risk and deliverability of the proposed scheme. In particular the council will wish to consider what legal and financial assurances there are that the proposed development will be delivered within 5 years, and that the promised benefits will both materialise and be maintained. Firm evidence is required that all benefits and development proposed can be funded and a contractual obligation with penalties for non-delivery is required.
- 16.53 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 ~~as opposed to merely damages for non-delivery and where the~~

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

16.54 The council is aware that the casino application may form part of a wider development proposal or be a new development. ~~The stage 2 evaluation will only take into consideration parts of a development that the applicant is willing to make a firm contractual commitment to deliver within a set timescale. Any benefits not supported by a contractual commitment in the schedule 9 agreement along with meaningful proposed penalties on non-delivery or delay and without proof of funding will receive little, if any, weight.~~ 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. ~~Development outside of the control of the applicant will not be considered.~~ Applicants must demonstrate that development proposals are credible.

16.55 The scoring of risk and deliverability will be weighted as follows:

3.0 Risk and deliverability	33%
3.1 Contents of the Schedule 9 Agreement	
3.2 Deliverability:	
- Financing	
- Financial Standing	
- Right to occupy the site/premises	
- Credibility of approach to implementation	

16.56 Further detail including the information required, its format and how the submission will be evaluated can be found in the evaluation methodology included in the stage 2 application pack along with a template schedule 9 agreement.

Changes to the Stage 2 Evaluation Methodology

Changes in red.

There are likely to be further changes to clarify and simplify some of the terminology in the application pack, especially in the Stage 2 Evaluation Methodology. These changes will be considered by Licensing Committee during approval of the full application pack prior to the commencement of the application process. These changes will not impact on the Statement of Licensing Policy.

Criteria 2.3: Net social impacts

Potential maximum weighted score = 50

This criterion will assess the net social (including health) impacts that could result from the development of a casino and related developments and the approaches to be adopted by applicants to mitigating any negative social impacts resulting from these developments. It will consider:

- ♦ The nature and scale of potential economic benefits and any negative social impacts.
- ♦ Any health impacts for the local area
- ♦ The approach applicants will adopt to mitigation of effects and the credibility to do so.
- ♦ The role the applicants and their developments could play in the regeneration of the chosen location and the Leeds metropolitan area.

Applicants should identify and provide an assessment of the potential social, health and equality impacts for their proposed location and detail their approaches to mitigating any negative impacts.

In particular, the council considers it important that applicants work in partnership with local employment and social programmes and have a detailed strategy that ensures educational, employment and training opportunities arise for disadvantaged communities. The council also requires that measures are in place to restrict problem gambling issues, and that measures protect residents living closest to the site.

In accordance with the requirements of the DCMS Code of Practice guidance applicants should take into consideration proximity to the following:

- ♦ Schools.
- ♦ Other facilities for children and vulnerable adults.
- ♦ Deprived areas.
- ♦ Places of worship.
- ♦ Large young or elderly populations.

The council requires innovative proposals on mitigation. Applicants may wish to consider some of the following mitigation measures, although these are not prescriptive:

- ♦ Providing flyer/campaign specific to the Leeds area assists patrons to recognise the early signs of gambling addiction and how to access help and support.
- ♦ Providing 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).
- ♦ Providing information about debt advice within the casino and work with Leeds Credit Union to consider encouraging Casino users to join Leeds Credit Union to encourage financial capability through savings provision.

- ♦ Ensuring information about alcohol dependency and brief intervention support is available.
- ♦ Ensuring that Positive Activities for Young People (PAYP) are available in the local area which will educate, stimulate and raise aspirations of local young people.
- ♦ Ensuring that a proportionate quota of jobs within the casino are 'ring fenced' for local people.
- ♦ Providing 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.

Information required:

A strategy setting out the applicant's:

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

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

Case study examples of existing co-operation with local partners and organisations, including the outcomes of these examples, with appropriate references.

Format of information:

An Equality Impact Assessment providing a detailed description and analysis of the:

- ♦ Social mix of the location.
- ♦ Equality characteristics considered (should cover as a minimum assessment of age, race, sex, carers, disability, religion or belief, sexual orientation, gender reassignment).
- ♦ Identification of potential impacts and their remedial action/mitigation.
- ♦ Details of key stakeholders and partners.
- ♦ Community consultations undertaken (with groups who may be affected and feedback from consultation).
- ♦ Research studies undertaken, e.g. into the potential barriers individuals may face based on different equality strands.
- ♦ Details of individuals responsible for management of equality and diversity, and of those with lead responsibility for actions detailing type of action, likely timescales, measures to be implemented.

A health impact assessment providing a detailed description and analysis of the:

- ◆ Health impacts of the proposed development and details of the remedial action/ mitigation
- ◆ Health statistics of the local wards closest to the casino and of the intended customer base
- ◆ Research studies undertaken, e.g. research of health matters in the Leeds area and research that substantiates analysis provided in the health impact statement
- ◆ Details of individuals responsible for management of health issues, and of those with lead responsibility for actions detailing type of action, likely timescales, measures to be implemented.
- ◆ Consultation undertaken with health professionals

Appropriate diagrammatic and graphical representation to underpin analysis and commentary.

Detailed description of proposed activities, including case studies of previous examples, with plans for how the applicant proposes to involve and cooperate with the council and local partners to support and deliver local social programmes.

Submissions will be evaluated in terms of:

The innovative nature of the strategy and the approaches to mitigating negative impacts which provide net additional benefit to the proposed location over and above the 'costs' of mitigation.

The quality of analysis of the social, health and equality matters and impacts in the local area

The degree of pro-activity in working with city wide partnerships and organisations, e.g. the third sector, to maximise economic impact and minimise negative social impacts.

The degree of commitment – as evidenced in the Schedule 9 Agreement – to:

- ◆ Working with the council to support the activities of the SIF.
- ◆ Outputs and outcomes that can be measured and substantiated with appropriate evidence, e.g. service level agreements with city organisations who can work in partnership with organisations, agreements to work together with city partners, contractual documentation, example templates, delivery plans or other relevant evidence.
- ◆ **Mitigating against social, health and equality issues.**
- ◆ **Commitment to cover any costs of negative impacts and mitigation**

The quality and deliverability of detailed strategies and approaches to addressing potential negative social impacts resulting from the proposed developments with a clear commitment from management to undertake the required remedial actions.

Evidence based case study examples of existing approaches to remedying negative social impacts, including cooperation and collaboration with local partners and support for the implementation and delivery of these activities – particularly where this is in the Leeds metropolitan area - supported by evidence of outputs/outcomes and references.

The council is interested in applicants detailing approaches and activities which are additional to those required under the DCMS Code of Practice.

In line with the details provided in the policy the council has no preferred site for the large casino/related development.

Annex A - Consultation responses

Web response 6042061

Unfortunately, casinos benefit not just from those who can afford to lose money, but benefit also from those who cannot control their gambling habit. Having met several people who are destroying their lives through gambling, I feel strongly that Leeds should not go ahead with this. Yes, it would bring in some tax revenue, but what about those lives it destroys. The gambling industry will not be there to pick up the pieces of those who wrecked their finances by gambling. The money that people spend on gambling would be much better spent on buying products and services from the local economy more likely be less destructive! I leave you with the words of a gambler, Eileen, I spoke to: *"I have a good job, but through gambling, I am now in more debt than I can ever pay back. I dare not tell my family, because I am ashamed of what I have done. I like gambling, but cannot help myself. I know that overall I lose, but I can't stop myself from playing. I wish I had never discovered this game (the one she plays in the casino)".* Surely there is a better way of making our economy grow than by providing a noose for such people to hang themselves with.

Web response 6045262

Apologies if you have had this already (computer crash a significant send moment!) Members of Leeds Churches Social Responsibility Forum continue to have concerns about the human cost of a large casino. As Leeds City Council considers the principles underlying the licensing policy, we urge you to ensure that

- 1) applicants for a licence are not encouraged to assume implicitly or explicitly that locating a casino in or close to a regeneration area is a social good and
- 2) the licence is awarded on the basis of demonstrating how social costs will be mitigated as well as demonstrating intended benefit

Web response 6045339

I have 2 concerns about the large casino licensing policy. Both are related to the location of casinos. The first concern is that those applying for and granting licences should not be allowed to assume that locating a casino near to a deprived area is good for that area, but should be required to provide evidence. The second concern is that licences should take into account the potential social costs associated with casinos (and strategies to address these costs), and not just potential benefits.

Written response 001 - by email

Responsible Gambling Fund - Responsible Gambling Strategy Board

Many thanks for offering RGF/RGSB the opportunity to comment on this matter.

On reflection, we feel that we do not have sufficient knowledge of local conditions to make a meaningful response.

However, and apologies if you know this already, we are closely involved in consultation on the commissioning and development of an impact assessment tool for use by all 16 LAs authorised to license 'new' casinos under the terms of the GA05.

Written response 002 - by email

I am writing with regard to the consultation for the large casino in Leeds. I have no problems with the casino if it means jobs are created in Leeds.

Written response 003 - by letter

Thank you for your letter of the 3rd May about the Statement of Licensing Policy in respect of a large casino.

I am not in favour of a large casino and I would be grateful if you could take my comments into account.

Written response 004 - by email

I write as Rector of St Georges Church, Leeds, and chair of the Trustees of St George's Crypt.

We are concerned that if a licence is issued to a large casino, people vulnerable to gambling addiction should be protected.

In particular:

1. One of the criteria for being granted the licence should be a robust plan to mitigate the social costs of having a large casino in Leeds.
2. It should not be assumed that the best location is close to a regeneration area; better to have it further away as there is a high proportion of the most vulnerable people living in regeneration areas.

Written response 005 - by letter

West Yorkshire Ecumenical Council

A number of Christian churches in Leeds are concerned at proposals to establish a large casino in the city. We feel that the social and human costs could exceed any benefits, and as such many of us would argue that the large casino should not be established at all.

If such an establishment is to go ahead, however, then it is essential that the Statement of Licensing Policy indicates clearly that the local authority is aware of the potential harm that could be caused by the casino and is determined that any future operator should minimise the risks of harm to the most vulnerable people.

There is a possibility that applicants for a licence would wrongly assume that the benefits of urban regeneration would necessarily outweigh the social and human costs of siting the casino in areas of deprivation. The most vulnerable people are likely to be resident in or adjacent to those brownfield sites which would be most attractive for a casino developer. The Statement of Licensing Policy should indicate that applicants must not only argue a case for regeneration; they must also give serious consideration to the social cost to vulnerable people in the vicinity.

Indeed, the Statement of Licensing Policy should go beyond simply ensuring that applicants are aware of the potential social costs. It should require that applicants give specific and costed indications of how they will mitigate the risks and reduce the negative impact of the casino for the more vulnerable people, especially in that locality. The choice of preferred applicant would be made not only on the basis of regeneration potential, but on the guarantee that the applicant would take concrete steps to minimise the social harm, especially to the most vulnerable people.

These protective steps would cover the full range of the casino's activities. Within that, specific examples could include but not be confined to: minimising the area used for slot machines, arguably the most harmful and dehumanising feature of a large casino, restricting the number of such machines, limiting the time and money which an individual could spend on them, and providing a well advertised counselling service for people with gambling addiction.

I trust these factors will be taken into account in the drawing up of a Licensing Policy.

Written response 006 - by letter

Diocese of Ripon and Leeds

I write on behalf of the Church of England diocese of Ripon and Leeds to contribute to the public consultation on the Large Casino Section Statement of Licensing Policy 2011-13.

- a) It is important that proper account is taken of the social costs for local communities of having a casino in their midst. These can be self-evident such as noise, or hidden, such as damage to social cohesion (see Hall Aitken: Social and Economic Casinos in the UK (2006) p.5), and harm to those with gambling addiction. Licence applicants should be required to indicate both intended social benefits, and ways of mitigating social costs (see: Casino Impact Assessment Study - Leeds City council 2006).
- b) There appears to be an assumption that a Casino will lead to local regeneration. The 2006 study makes it clear that this is by no means inevitable. Applicants should be required to demonstrate the local economic benefits, as well as those for the whole city.

I hope these points will be helpful so that the policy indicates clearly a concern for the welfare of the locality in which any casino is set.

Written response 007 - by letter

NHS Leeds

NHS Leeds' response to the Leeds City Council public consultation exercise regarding the amendment to the Large Casino Section of the Statement of Licensing Policy.

Proposed changes to the Large Casino Section of Leeds City Councils (LCC) Statement of Licensing Policy, state that LCC intend to appraise potential Large Casino applicants using the following criteria:

Financial - To seek to maximise the financial return to the council

Social - To use any financial return accrued to facilitate the delivery of programmes and projects that support the Council's social and economic inclusion agendas via the Social Investment Fund (SIF)

Economic- To secure a positive and significant economic impact for the local economy through the provision of a large casino in Leeds

NHS Leeds would like to raise their concerns that nowhere within the 'Statement of Licensing Policy' document do LCC acknowledge the potential

negative impacts that a Large Casino development in Leeds could have on both community and/or individual health. As a result of this, assessment criteria for applicants does not include an assessment of health impacts which NHS Leeds believes should be an essential assessment component.

The following outlines the potential health impacts of a Large Casino.

1. Socio economic related health impacts of casinos and problem gambling.

Leeds City Council (2010) state that the three main drivers for the development of a Large Casino sites are (i) Positive local Economic Impact (ii) Financial return to the Council and (iii) Accrualment of Social Investment to Fund (SIF) activities which contribute towards the 'Narrowing the Gap' agenda. All three objectives could have a positive socio economic impact.

However patterns have emerged across the country which reveal that many proposed development sites for Large Casinos are situated within areas ranking within the top 10% in relation to the Governments Index of Multiple Deprivation (IMD) data (2007).

People living in areas of deprivation are disproportionately affected by higher levels of income deprivation, employment deprivation, higher rates of ill health and disability, lower rates of education, skills and training, lack of social housing, high levels of crime and poor living environments.

Individuals living in areas of deprivation are at much greater risk of negative impacts associated with gambling. The British Gambling Prevalence Survey, (2007) reveals that specific socio-demographic risk factors associated with gambling addiction/problem gambling which include being male, having a parent who was or who has been a problem gambler, being separated or divorced and having a low income.

Low income is one of the most consistent factors associated with problem gambling worldwide (Centre for Social Justice, 2008).

2. Impact on finance and debt

Alongside this, rates of declared bankruptcy amongst regular gamblers have been found to be significantly elevated (Getstein *et al*, 1999); with between 18% and 28% of males and 8% of females having declared bankruptcy (Thompson, Gazel and Rickman 1996; Lesieur and Anderson 1995). Debt can result from gambling directly (debt as a result of money spent gambling) or indirectly (individual cannot make other financial payments due to using money for gambling) (Downs and Woolrych, 2010). Research completed by MIND (2008) showed that debt is an indicator of mental health problems as it can result in problems such as depression and anxiety and can be a risk factor for suicide. Downs and Woolrych (2010) also highlight the negative impact this has on relationships and the wider family. A lower disposable income could result in less money being prioritised on healthy living activities such as fresh fruit and vegetables.

Gamblers are also more likely to lose employment as a result of poor concentration, lowered efficiency, impaired judgment, faulty decision-making, lateness and absences from work and abuse of the telephone and internet to place bets and deal with creditors (Department for Culture Media and Sport, 2005).

3. Lifestyle

The causal relationship between gambling severity and certain medical conditions is poorly understood. This is due to other factors such as low socioeconomic status that may affect the relationship between pathological gambling and some medical conditions;

as people from low socioeconomic backgrounds are more likely to suffer increased rates of a range of health problems (Luo & Waite 2005; Must *et al.*, 1999, cited in Morasco *et al.*, 2006).

4. Impact on alcohol consumption

Evidence taken from the National Research Council (1999) signifies an overlap between addictive disorders such as alcohol, smoking, drug dependence and problem gambling. There is a correlation between higher levels of alcohol consumption and poorer health outcomes (Rolfe *et al* 2009).

The National Research Council reports that those individuals admitted to addiction treatment programmes were three to six times more likely to be problem gamblers than individuals in the general population. Morasco *et al* (2006) report a range of adverse physical problems including angina, cirrhosis and liver disease to be significantly associated with individuals who gamble.

As in the UK where there is a culture of binge drinking (Measharn 2006), extended opening hours seems to encourage consumption of alcohol (Scottish Government 2007) which in turn may be linked to increased problems with alcohol related crime and disorder (Babor 2003). However, in contrast, a review into the attitudes and perceptions of the public in relation to licensing laws concluded that as alcohol is seen as a substance that is already available, extended licensing laws would not alter the current situation surrounding problem drinking (Lancaster & Dudleston 2002).

5. Impact on smoking levels

As well as alcohol and substance use, gambling is also associated with cigarette smoking (Bergh & Kuhlhorn., 1994, cited in Morasco *et al.*, 2006), which is directly linked to heart disease; a condition which is frequently co-morbid with pathological gambling. This cycle evidences a direct link between smoking prevalence and heart disease amongst gamblers. The study also showed that increased gambling severity was also associated with nicotine dependence.

6. Impact on Family Cohesion

The families of problem gamblers often experience difficulties including emotional distress, financial problems and health problems (Dickson *et al*, 2005). Spouses of gambling addicts often report physical and emotional problems similar to those of the gambler including stress and insomnia. Gambling can have serious financial and emotional effects on families (Jacobs, 2000). Rates of separation and divorce are significantly higher amongst gambling addicts (US National Research Council, 1999) as well as an increase in domestic violence. Social learning theory theorises that often children model, learn and maintain behaviours that parents and family members display reinforce. In research conducted by Gupta & Derevensky (1997) with young people aged between the ages of 9 and 14, 86% admitted that experiencing a parent or family member gambling legitimised it as an acceptable activity.

7. Mental Health

In a review of the relationship between gambling and mental health, Shaffer and Korn (2002) state that it is difficult to determine cause and effect. They give examples of studies that suggest that people who already experience psychological problems are gambling as a result of their mental health issues, and conversely, other studies that show the psychological problems occur as a result of gambling. Either way, a super casino readily accessible is likely to increase both these scenarios.

8.a Impact on mental health conditions

In the past it was suggested that gambling may be a buffer for mental health problems (Rado, 1933) as it can provide a distraction and therefore stop progression to a more distressed state. However the majority of evidence shows a negative relationship (Shaffer and Korn, 2002). In a 1981 epidemiology study (Renee *et al*, 1998) gamblers showed higher rates of psychiatric disorders than people who do not gamble even after they adjusted for sex, age and race. This predicted increase in problem gamblers as a result of the super casino will impact on mental health services though increased rates of referral (Ricketts and Bliss, 2003).

A study by Moodie and Finnigan (2006) found higher rates of depression among pathological gamblers than among those who gamble less frequently. Shaffer and Korn (2002) suggest that anxiety is often obvious among gamblers but as anxiety disorders include a wide range of distinct diagnostic categories, there has been insufficient research into the links with each anxiety disorder (e.g. obsessive compulsive disorder).

Mental health problems cause understandable distress to the individual and their families; 34% of people experiencing mental health problems give their life a rating of 'poor' compared to only 4% of people without mental health problems (Singleton and Lewis, 2003). Mental and physical health is inextricably linked with mental health problems increasing physical health problems and vice versa (NICE, 2009). The risk of hypertension and heart disease are among the number of stress-related physical illnesses associated with pathological gamblers (Lesieur 1998; Volberg 2001).

8.b Impact on Suicide Rates

Suicide attempts amongst pathological gamblers are second only to those individuals with major affective disorders and schizophrenia (Rosenthal & Fung 2004). Newman and Thompson (2007) show that suicide attempts by pathological gamblers are 3.4 times the rates of the general population (but cannot determine causal pathway). Wong *et al* (2010) used psychological autopsy to show that 17 pathological gamblers who committed suicide all had unmanageable debt, with 10 suffering from major depression. Despite the small sample size they suggest that pathological gambling is a one risk factor for suicide that can be modified, supporting the case for interventions for pathological gamblers.

8.c Impact to society relating to cost of mental health

Mental health problems also have wider implications to society; the Sainsbury Centre for Mental Health (2003) show that mental health problems account for £77 billion loss to the economy per year due to lost productivity at work, benefit costs etc. In 2008 the total amount spent on mental health services for adults in England was £5.892 billion (Mental Health Strategies, 2009). A key way to reduce the cost of mental health services is to support people with mental health problems into employment (MHDU, 2010)

8.d Impact on social isolation

Korn and Shaffer (1999) suggest that community cohesiveness as a result of a casino may bring about a sense of belonging/connectedness and respite from social isolation. This may be particularly relevant for older people (Shaffer and Korn, 2002) however the quality of the social interaction is questioned in a study by Zaranek and Chapleski (2004). They found that those that visited the casino occasionally attended for social reasons, but this group already tended to enjoy other social interaction outside of the casino; in contrast the frequent attendees of the casino had less social support suggesting the casino was an alternative way to interact socially. However the nature of this interaction is in itself isolating and therefore does not result in a benefit to

the mental well-being of socially isolated individuals. To support this they found that this group had lower levels of mental health, though they do acknowledge that this is a cross sectional study so cause and effect can not be proven.

9. Impact on employment opportunities

The development of the super casino is estimated to create 700 new jobs for local people (Leeds City Council, 2010). Employment is argued by many to have the single largest positive impact on individual's health and wellbeing (Thomas *et al*, 2005). This positive impact applies to men and women and there is no disparity between ethnicity, culture or marital status (Ross & Mirowsky, 1995). A regular income from employment increase household income and reduces economic hardship.

A key recommendation for reducing health inequalities within the Marmot Report (2010) is an increase in access to focal jobs for people living in deprived areas. Marmot argues that there is a direct correlation between employment and the amount of control and support and individual feels that they have, these two factors can have a biological effect on health and wellbeing.

Evidence suggests (Shaffer *et al*. 1 999) that casino employees display higher rates of gambling than the general population as well as higher rates prevalence of alcohol consumption, smoking, problems, and depression. However the benefits likely to happen include the creation of jobs and economic activity to the area which can have a positive impact on health of those people who gain employment. As poverty, aspirations and employment have a relatively heavy influence on health, through the wider determinants (Marmot, 2010).

NHS Leeds recommendations

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.

With this in mind the following recommendations are made:

- 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.

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Dr Ian Cameron
Director of Public Health
18th July 2011

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Written response 008 - by email

Financial Inclusion Steering Group

The casino policy and application pack was considered by The Financial Inclusion Steering Group (a Leeds Initiative Partnership Group) at its meeting on the 14th July. The meeting agreed to respond to the consultation and made the following comments:

1. That applicants for a licence should not be encouraged to assume implicitly or explicitly that locating a casino in or close to a regeneration area is a social good.
2. That the licence should be awarded on the basis of demonstrating how social costs will be mitigated as well as demonstrating intended benefits.
3. If the Social Inclusion Fund is the key means whereby social costs are mitigated, the Council have an obligation to indicate that this will be used to mitigate the social costs of having a casino, especially if it is located close to or within an area where levels of debt and financial illiteracy are known to be high.

Written response 009 - by letter

Leeds Churches Together in Mission

On behalf of Leeds Churches Together in Mission (LCTiM) I am writing to contribute to the public consultation on the Large Casino Section Statement of Licensing Policy 2011-13.

LCTiM has particular concern to see two areas addressed in the Licensing Policy. These are -

1. **That applicants for a licence should not be encouraged to assume implicitly to explicitly that locating a casino in or close to a regeneration area is a social good.** Hall Aitken in *Social and Economic Impact of Regional Casinos in the UK (2006)* states that the negative social impacts of casinos are felt more strongly in local communities closest to the casino. Therefore any encouragement to locate a Casino within a regeneration area could have negative social impacts in that area.
2. **That the licence should be awarded on the basis of demonstrating how social costs will be mitigated as well as demonstrating intended benefits.** The Leeds City Council 2006 Casino Impact Assessment Study states *"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"*. Licence applicants should therefore be required to indicate both intended social benefits and ways of mitigating social costs.

I hope these points will be a useful contribution to the public consultation.

Written response 010

Leeds CAB

Thank you for the opportunity to comment on Leeds City Council's plans regarding a large casino in the city. As the main provider of free, independent debt advice services in Leeds, Leeds CAB has serious concerns about the possible impact of a large casino in the city. Based on evidence from the Gambling Commission, Leeds CAB has concerns that the development of a large casino in Leeds will lead to an increase in the number of people with money problems, with those on low incomes being the most vulnerable to the adverse effects of such a development.

The British Gambling Prevalence Survey of 2010, published by the Gambling Commission, assessed the prevalence of participation in gambling, the prevalence of problem gambling and the socio-demographic and other factors associated with gambling and problem gambling. The survey reported a number of findings that give cause for concern among those of us working with people on low incomes and with money problems, as they evidence a correlation between gambling problems, money problems and low income.

- Prevalence of problem gambling is highest:
 - In areas of high deprivation;
 - Among the unemployed;
 - Among those with very severe money problems.
- High time/high spend gamblers (i.e. those who spend a lot of time and a lot of money on gambling) show a preference for betting on horse races, fixed odds betting terminals (i.e. gaming machines) and playing casino games.
- Problem gambling is also more prevalent among young people (16-24 years olds) and people with serious health problems.
- 0.9% of the population in Britain can be defined as problem gamblers, suggesting that in Leeds there may be around 7,000 people who are already problem gamblers. International comparisons also indicate that the rate of problem gambling is higher where gambling is more readily accessible (1.4% in South Africa and 1.4-2.1% in Australia).

Even a small increase in the number of people with gambling problems in Leeds is likely to have a significant negative economic impact for the city. For example, if the development of a large casino in Leeds results in an increase in problem gambling of only 0.1% that would mean an additional 800 people becoming problem gamblers with the likely corresponding money problems described above. Given that the average value of debts owed by CAB clients is £15,500, that could amount to an additional £12,000,000 of debt in the local population, created as a result of the casino.

If we then take into account further costs to the local economy as a result of these debt problems, such as eviction and homelessness, the potential negative costs of a casino are considerable.

Under the proposed evaluation criteria, impacts such as an increase in the number of local people with debt problems will be assessed under Criterion 2.3 Net social impacts, and will not be taken account of under Criterion 2.2.1 Net contribution to the local economy. The latter criterion has been given a weighting of 140 points, while the former has only a weighting of 50 points. We would therefore like to see a higher weighting given to Criterion 2.3 to reflect the seriousness of likely negative financial effects of a large casino.

If a large casino development does go ahead we believe it is vital that it is contingent on a Social Inclusion Fund making a significant contribution to dealing with these negative effects, for example:

- Making an ongoing contribution to funding debt advice in Leeds, proportionate to the likely increase in debt problems as indicated by the Gambling Commission research.
- Making an ongoing contribution to other services likely to be affected such as counselling services and public health services.

Written response 011

Joelson Wilson

We act on behalf of Rank Group PLC ("Rank"). Further to Rank's response dated 1 October 2009 to the draft revisions to Leeds City Council's Statement of Licensing Principle, we welcome the opportunity to comment upon your draft Statement of Licensing Policy 2011-2013 and Draft Application Pack.

STATEMENT OF LICENSING POLICY 2011-2013

1. No Casino Resolution

We note the reference at paragraph 16.14 to the power of the 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 benefit for the Leeds Metropolitan Area".

It is Rank's 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. Rank's 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 an 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 the 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.

2. Rank notes at point 16.40 that payment will be required upon the signing of any agreements" and at page 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 application 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?

3. 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".

4. 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, Is it 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?

DRAFT APPLICATION PACK

5. 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.

6. 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.

7. 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.

8. 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 Hearings Regulations") applies to proceedings of the Licensing Committee in the exercise of its functions under GA 2005 and a hearing compliant 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.

9. 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 1 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.

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

11. 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 suggests that the reference at page 7.19 should also be qualified for the avoidance of doubt.

DRAFT AGREEMENT UNDER SCHEDULE 9 OF THE GA 2005

12. At "Introduction Point (6)" of the draft agreement it states — lithe 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.

FINAL DETERMINATION

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

PLANS

14. Rank would be grateful if you would 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.

We look forward to hearing from you with your responses to the above points.