

Brighton & Hove City Council

For general release

Meeting: Licensing Committee (Licensing Act 2003 functions)

Date: 20 April 2006

Report of: Director of Environment

Subject: Gambling Act 2005 - Draft licensing authority statement of gambling policy

Ward(s) affected: All

1. Purpose of the report

- 1.1 The Gambling Act 2005 requires licensing authorities to prepare, every three years, a statement (also known as a Policy) of the principles which they propose to apply when exercising their functions, and they must publish the statement. In preparing the statement, licensing authorities must follow the procedure set out in the Act, including whom they should consult.
- 1.2 The statement must be prepared following Gambling Commission guidelines and a draft report is appended.

2. Recommendations

- 2.1 That officers develop a statement of gambling policy with our partners, consult and in due course report back to licensing committee to go forward to Council.

3. Information

- 3.1 The licensing objectives of the new Act 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; and,
 - protecting children and other vulnerable persons from being harmed or exploited by gambling.

- 3.2 The Draft Statement has been prepared in accordance with the provisions of the Gambling Act 2005. Its purpose is to promote the gambling objectives, give weight to views of consultees and set out a general approach to making gambling decisions. The gambling authority must carry out its functions with a view to promoting the gambling objectives and the statement is framed around those objectives. Each application will be given individual consideration on its merit.
- 3.3 Timetable: The Gambling Commission published guidance to Local Authorities. Local Authorities will have to prepare a draft policy by June 2006 and will then be required to consult on the draft policy for 3 months. The draft policy will be finalised in September/October and published during November 2006. The First Appointed Day will be 31 January 2007.

COMMITTEE REPORT APPENDIX

Meeting/Date	Licensing Committee 20/04/2006
Report of	Director of Environment, Jenny Rowlands
Subject	Gambling Act 2005
Wards affected	All

Financial implications

DCMS has decided that premises licence fees will be set via a series of bands with a prescribed minimum. Licensing Authorities will be able to select precise fees from within the bands, limited to cost recovery. This aims to allow authorities flexibility and the industry a degree of certainty. In addition, the authorities rated excellent by the Comprehensive Performance Assessment will be able to set fees outside the bands, limited to cost recovery.

Legal implications

Local authority responsibilities include: upholding licensing objectives, publishing a three year licensing policy, determining applications for premises licences and regulating members clubs – club gaming and machine permits. The Licensing Committee established under section 6 of the Licensing Act 2003 has authority to exercise functions under the Gambling Act 2005 with the exception of: a resolution not to issue casino licences, the three year licensing policy (full council) and setting fees.

Corporate/Citywide implications

DCMS believes these functions can “in the main be dealt with administratively by officers.”

Risk assessment

Transitional arrangements seek to ensure the burden on local authorities and gaming premises is kept to a minimum.

Sustainability implications

None

Equalities implications

With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments. Protecting children and other vulnerable persons from being harmed or exploited by gambling is one of the licensing objectives. The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. “Vulnerable persons” will not be defined but for regulatory purposes the assumption is that this group includes people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. Operators should encourage where appropriate, strategies for self help and provide information on organisations where advice

	and help can be sought.
Implications for the prevention of crime and disorder Gambling Commission Inspectors will have the main enforcement/compliance role. The police and licensing authority officers have powers of entry and inspection	
Background papers :	
Contact Officer Jean Cranford, Licensing & Projects Manager – telephone 2550	

Brighton and Hove City Council: Draft Gambling Statement

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1. Brighton and Hove City Council: Draft Gambling Statement

1 Introduction

1.1 This statement has been prepared in accordance with the provisions of the Gambling Act 2005. Its purpose is to promote the gambling objectives, give weight to views of consultees listed below and set out a general approach to making gambling decisions. The gambling authority must carry out its functions with a view to promoting the gambling objectives and this statement is framed around those objectives. Each application will be given individual consideration on its merit. The scope of this Policy covers the following:

- Avoidance of unnecessary duplication or inefficiencies by properly separating the planning and gambling regimes in operation
- Demand for gaming premises
- Principle to be applied in exercising functions under Section 15 of the Act with respect to inspection of premises and the power under Section 346 of the Act to institute criminal proceedings
- Principle to be applied to determine whether a person is an interested party in relation to a premises licence, or in relation to an application for or in respect of a premises licence
- Consideration of applications
- Statement regarding casino resolution
- Information exchange
- Statement of principles

1.2 The gambling objectives are:-

- a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- b) Ensuring that gambling is conducted in a fair and open way, and;
- c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.

1.3 The statutory consultees are:-

- (a) the chief officer of police for the authority's area;
- (b) such persons as the gambling authority considers to represent the interests of persons carrying on gambling businesses in the authority's area;

- (c) such 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 the Act.

- 1.4 In addition to consultees in 1.3 above, a list of the persons or bodies consulted can be found at (12) on page 15.

Due consideration was given to all those who responded – the consultation period commenced xxxxx and lasted...

- 1.5 This policy will come into force on [date] by resolution of Full Council during Summer 2006 and will be reviewed and published at least every three years. The review process will be undertaken using the same principles as the initial consultation process. The policy will also be under review in the interim periods; any revisions required by either process will also be the subject of consultation. It is also subject to guidance issued by the Government including any issued after the date of publication of this Statement.

1.6 Local Features

The population of Brighton & Hove is approximately 250,000, but this number increases significantly in the summer months with the influx of tourists. Eight million people visit this city-by-the-sea each year and it is also one of the top 10 most popular UK destinations for overseas visitors, with over 310,000 staying visitors per year and supporting over 13,000 local jobs. Brighton Marina is one of the largest in Europe, and the City is a major centre for heritage and culture, hosting the largest annual international arts festival in England every May. There are also two Universities, a City College and a large number of language schools, which together make the City very popular with students from many parts of the world. Thirty five percent of the population is aged 20-39, which is much higher than the national average. This is quite different from the large retirement age population associated with many coastal cities and reflects the City's reputation among young people as an attractive place to live.

The Office of National Statistics figures for 2003 show that in the three year period from 1998 to 2001 there has been a trend of increasing numbers of hotels, restaurants and bars in the city. Hotels have increased by 22%, restaurants by 16% and bars by 12% - this trend has not showed signs of change to date. This would seem to reflect the growing importance of the tourism and leisure industries to Brighton & Hove: increasing diverse groups of young people are attracted here as a leisure destination. A burgeoning music industry, a vibrant pub and

club culture and being a place to party ensures that the city is on the leisure map. Brighton & Hove is also a major, internationally recognised leisure destination for the gay community. The city's proximity to London means that it is able to attract high spend, short stay visitors who are drawn to the pub and club scene in the city's centre.

- 1.7 The City of Brighton & Hove already provides many gambling facilities. There are two race tracks. Brighton Racecourse on Whitehawk Down has been a site of organised public racing since the late eighteenth century. Brighton and Hove were two of the 53 permitted areas in Great Britain with four casinos under the 1968 Act. There are numerous bingo and betting premises. As a seaside resort, there is a history of amusement arcades, likely to become family entertainment centres or adult gaming centres.
- 1.8 The types of applications covered by the gambling authority of Brighton & Hove City Council and relevant to this statement are:-
 - To license premises for gambling activities
 - To consider notices given for the temporary use of premises for gambling
 - To grant permits for gaming and gaming machines in clubs
 - To regulate gaming and gaming machines in alcohol licensed premises
 - To grant permits to family entertainment centres for the use of certain lower stake gaming machines
 - To grant permits for prize gaming
 - To consider occasional use notices for betting at tracks
 - To register small societies' lotteries
- 1.9 Gambling decisions and functions may be taken or carried out by the gambling committee of Brighton & Hove City Council or delegated to the gambling sub-committee or in appropriate cases by officers of the authority. As many of the decisions will be purely administrative in nature, the principle of delegation to officers is adopted in the interests of speed, efficiency, and cost effectiveness. The terms of delegation of function are set out below.

Matter to be dealt with	Full Council	Sub-Committee	Officers
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licence		If a representation made	If no representation made
Application for a variation to a licence		If a representation made	If no representation made
Application for a transfer of a licence		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Review of a premises licence		X	
Application for club gaming/club machine permits		If a representation made	If no representation made
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

1.10 The gambling authority shall foster ownership, co-ordination and partnership. Work shall include consultation with business managers to encourage understanding and ownership of policy and good practice.

1.11 Nothing in this policy shall undermine any person from applying for a variety of permissions under the Act and absolute weight will be given to all relevant representations. Such representations will not include those that are frivolous or vexatious.

1.12 **Human Rights**

In considering applications, and taking enforcement action, licensing authorities are subject to The Human Rights Act and in particular the following relevant provisions of the European Convention on Human Rights:-

- Article 1, Protocol 1 - peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest.
- Article 6 - right to a fair hearing.
- Article 8 - respect for private and family life. In particular, removal or restriction of a licence may affect a person's private life; and

- Article 10 – right to freedom of expression.

Authorities should be aware that moral objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers). In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being met.

2 Fundamental Principles

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

2.2 Applicants for premises licences will have to hold an operating licence from the Gambling Commission before the premises licence can be issued. The licensing authority will not need to investigate the suitability of an applicant since the Commission will have already done so for both operating and personal licences.

2.3 If, during the course of considering a premises licence application, or at any other time, the licensing authority receives information that causes it to question the suitability of the applicant to hold an operating licence, these concerns should be brought to the attention of the Commission without delay.

2.4 Licensing authorities will need to consider the location of premises in the context of this objective. If an application for a licence or permit is received in relation to premises that are in an area noted for particular problems e.g. with organised crime, the authority should think about what controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence. Section 169 of the Act allows the authority to impose conditions to prevent disorder.

2.5 Consideration may be given to imposition of conditions concerning:

- Security and door supervision – guarding a premises against unauthorised access or occupation, or against outbreaks of disorder or against damage may only be undertaken by Security Industry Authority licensed personnel.

- As set by regulation.

2.6 Ensuring that gambling is conducted in a fair and open way

Generally the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter dealt with under the operating licence or personal licence.

- 2.7 In relation to the licensing of tracks, the licensing authority's role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.

- 2.8 Conditions may be imposed as set by regulation.

2.9 Protecting children and other vulnerable persons from being harmed or exploited by gambling

With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments. Children must be protected from being "harmed or exploited by gambling" which in practice means preventing them from taking part in or being in close proximity to gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

- 2.10 Specific measures to prevent this will include:-
- a) Supervision of entrances
 - b) Segregation of gambling from areas frequented by children
 - c) Supervision of gaming machines in non-adult gambling specific premises.

These considerations will be particularly relevant on tracks (where children will be permitted in the betting areas on race-days) and in the regional casino, where children will be permitted on non-gambling days.

- 2.11 The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. "Vulnerable persons" will not be defined but for regulatory purposes the assumption is that this group includes people who gamble more than they want to, people who gamble beyond their means,

and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

Operators should encourage where appropriate, strategies for self help and provide information on organisations where advice and help can be sought, such as GamCare, Gamblers Anonymous, National Debtline, Gordon House Association and Mencap.

- 2.12 Consideration must be given, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons. Any such considerations will need to be balanced against the authority's objective to aim to permit the use of premises for gambling.
- 2.13 The gambling authority recognises the Children, Families and Schools section as being competent to advise on matters relating to the protection of children from harm. Applicants shall copy their applications to:
Children, Families and Schools Directorate
Head of Service (Child Protection)
King's House, Hove, BN3 2LS
in its capacity as the responsible authority.
- 2.14 Children are permitted to enter family entertainment centres and may play category D machines.
- 2.15 Consideration may be given to imposing conditions concerning
- Installation of cash dispensers (ATMs) on premises
 - As set by regulation.

3. Avoidance of unnecessary duplication or inefficiencies by properly separating the planning and gambling regimes in operation

- 3.1 This policy shall avoid unnecessary duplication or inefficiencies by properly separating the planning and gambling regimes in operation. Where appropriate, matters for consideration in gambling applications will not duplicate matters considered as part of any planning application. Gambling decisions will take into account any relevant planning decisions either by the Planning Committee or following appeals against decisions taken by that committee and will not normally cut across such decisions.
- 3.2 The Gambling Committee should provide regular reports to the Planning Committee on the situation regarding licensed premises

in the area. Such reports may include: the general impact of gambling related crime and disorder, numbers and types of applications per ward, results of applications/appeals, details of closing times, such other information as the committee deems appropriate. The policy will refer to any Supplementary Planning Guidance as appropriate and regular reports to the Planning Committee regarding licensed premises in the area will include details of the general impact of alcohol related crime and disorder.

- 3.3 In order that licences are not refused on amenity grounds and to avoid inoperative licences being granted, the gambling authority may postpone the grant of new licences until any outstanding local authority issues have been resolved (including planning). They will require a letter of confirmation from the applicant. (ref. Protocol between gambling and planning authority). This will avoid licence hearings being a repeat of planning application considerations.

4. Demand for gaming premises

- 4.1 Unmet demand is not a criterion for a licensing authority in considering an application for a premises licence under the Gambling Act. Each application must be considered on its merits without regard to demand. (6.10)
- 4.2 The licensing authority may comment on the location of premises in so far as the location relates to the licensing objectives. The general principals that will be applied when determining whether the location of proposed gambling premises is acceptable (with or without conditions) will reflect the licensing objectives. So for example, the authority will consider very carefully whether applications for premises licences in respect of certain gambling premises located very close to a school, or a centre for gambling addicts should be granted in light of the third licensing objective. However, each application will be considered on its merits and will depend on the type of gambling that it is proposed will be offered in the premises. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will have to be taken into account.

5. Interested parties

5.1 Section 158 of the Act defines interested parties as persons who:

- a) live sufficiently close to the premises to be likely to be affected by the authorised activities
- b) have business interests that might be affected by the authorised activities; or
- c) represent persons who satisfy a) or b).

5.2 Persons who fall into c) above may include trade associations, trade unions, residents associations and tenants associations.

5.3 Whether a person is an interested party with regard to a particular premises will be considered on a case-by-case basis, judging each on its merits. The size of the premises and the activities taking place will be taken into account. Larger premises may affect people over a broader geographical area compared to smaller premises offering similar facilities.

6. Principle to be applied in exercising functions under Section 15 of the Act with respect to inspection of premises and the power under Section 346 of the Act to institute criminal proceedings

6.1 The Enforcement Concordat (now called the Regulatory Compliance Code) will be accepted as best practice. The Better Regulation Executive and Hampton review of regulatory inspections and enforcement will be used as models, as follows:

- Proportionate: regulators should only intervene when necessary; remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

7 Statement regarding casino resolution

7.1 The licensing authority has not taken a decision to pass a resolution not to issue casino licences. The effect of a resolution would be not to issue new casino licences in Brighton & Hove.

7.2 The decision to pass such a resolution may only be taken by the authority as a whole and cannot be delegated to the licensing

committee. In passing such a resolution the authority may take into account any principle or matter, not just the licensing objectives. Where a resolution is passed, it must be published by the authority in this licensing statement.

- 7.3 The resolution must apply to casino premises generally, so that the authority cannot limit its effect to geographic areas or categories of casinos. This will only affect new casinos. It will not have any effect on casino premises licences or provisional statements issued prior to the date the resolution comes into effect. Similarly, a resolution will not affect the ability of casinos with preserved entitlements from the 1968 Act from continuing to operate as casinos.
- 7.4 The Council's response to the Casino Advisory Panel states that there would be no objection to one additional large casino and one additional small casino but there is no interest in any proposal for a regional casino.

8 Information Exchange and Integration of Strategies

- 8.1 The Commission may require authorities to provide information about applications covered by the gambling authority. This information will be provided in the format requested by the Commission.
- 8.2 This Policy will follow corporate guidelines regarding data protection and freedom of information. Where valid representations are received, a copy is sent to the applicant in order to facilitate discussions on the matters raised.
Please note: *names and addresses of those making representations will usually be disclosed to applicants.*
- 8.3 The gambling authority shall secure the proper integration of this policy with local crime prevention, planning, tourism and cultural strategies by:-
- Liaising and consulting with the Sussex Police, HM Revenue & Customs and the Community Safety Strategy representatives and following the guidance in community safety and crime and disorder strategy,
 - Liaising and consulting with the planning authority,
 - Liaising and consulting with tourism, stakeholder groups, business groups such as the City Centre Business Forum and the economic development functions for the Council.
 - having regard to any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols

- 8.4 The Statement of Gambling Policy will support the aims of the tourism strategy recognising the benefits for the tourism economy by creating a safer and more attractive City centre and improving competitiveness with other European Cities.
- 8.5 The Licensing Committee should receive any reports relevant to the needs of the local tourist economy and the cultural strategy for the area, the employment situation of the area and the need for new investment and employment where appropriate to ensure that it considers these matters.
- 8.6 In determining applications for licences, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers as recognised by the Community Safety Strategy and Policing Strategy. Applicants may be required to consult local transport operators.
- 8.7 Planning permission is not a guarantee that permission to provide gambling will be granted. The two regimes work separately.

9. Standard Conditions

The gambling authority will not impose blanket standard conditions to premises licences granted. Appendix 2 (Section 169 of the Act) contains a pool of model conditions that may be imposed or excluded by the licensing authority. [\[Gambling Commission's guidance Section 9\]](#) from which to choose suitable and appropriate ones to suit the specific needs of an individual premises' operation. The authority should take decisions on individual conditions on a case-by-case basis.

This policy does not support the use of blanket conditions which, if imposed, may be seen as disproportionate and overly burdensome.

10. Enforcement

- 10.1 The enforcement of gambling law and the inspection of licensed premises will be detailed in the Protocol between the Gambling Commission, Brighton & Hove City Council and Sussex Police. This protocol will monitor compliance with the provisions of the Act and with licence conditions, and the investigation of suspected offences.
- 10.2 In general, the approach of the Commission will be that the authority which issues a licence or permit should take the lead in

ensuring compliance with the licence and any conditions attached to it, including compliance with relevant codes of practice.

11. Contact Details, Advice and Guidance

11.1 Further details for applicants about the gambling and application process, including application forms, can be found:

- By contacting the Health & Safety and Licensing Team at:
Bartholomew House
Bartholomew Square
Brighton
BN1 1JP
- By telephoning them on 01273 294429
- By faxing on 01273 292169
- E-mail ehl.safety@brighton-hove.gov.uk
- Via www.brighton-hove.gov.uk (search under gambling applications and follow the relevant links)
- Via City Direct
- Gambling Commission
- the Police
- Fire Authority
- Planning
- Environmental Health
- Child protection
- HM Revenue & Customs

12. Consultation was undertaken with the following:-

Full consultation list to follow