

AGENDA ITEM: 6

SUMMARY



Report for:	Licensing Health & Safety Enforcement Committee
Date of meeting:	18th September 2012
PART:	1
If Part II, reason:	

Title of report:	Gambling Act 2005 – Review of Statement of Principles
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To outline proposed amendments to the Statement of Principles and responses to consultation, and to seek referral to Cabinet/Council for adoption of the revised Statement
Recommendations	To refer the draft Statement of Principles to Cabinet/Council for adoption.
Corporate objectives:	Building Community Capacity/Safe and Clean Environment <ul style="list-style-type: none">The Statement of Principles sets out the ways in which the licensing authority will seek to promote the licensing objective of ‘protecting children and other vulnerable persons from being harmed or exploited by gambling’ through the exercise of its licensing functions Dacorum Delivers <ul style="list-style-type: none">The Statement of Principles is a statutory obligation, and failure to comply could lead to reputational damage for the Council and possible legal action.
Implications:	<u>Financial / Value for Money</u> None
Risk Implications	n/a
Equalities Implications	n/a
Health And Safety Implications	n/a

Consultees:	Consultation has been carried out in accordance with statutory requirements, and the results are outlined in this report.
Background papers:	Draft Statement of Principles 2013-2016 Gambling Act 2005 Gambling Commission Guidance to Licensing Authorities, 3 rd ed
Glossary of acronyms and any other abbreviations used in this report:	

1. BACKGROUND

- 1.1. Commercial gambling in the UK is regulated under the Gambling Act 2005, which provides a system of licences, notifications, permits and registrations for the authorisation of various gambling activities.
- 1.2. Dacorum Borough Council is a licensing authority under the 2005 Act, with responsibility for regulating premises-based, non-remote gambling through the issue of premises licences, gaming machine and prize gaming permits, temporary and occasional use notices, and the registration of non-commercial societies for the promotion of small society lotteries.
- 1.3. Section 349 of the Act requires every licensing authority to prepare and publish “a statement of the principles that they propose to apply in exercising their functions under this Act” for each successive three-year period. Regulations made under the Act set the first day of the first such period as the 31st January 2007.
- 1.4. It is now necessary to prepare and publish Dacorum’s Statement of Principles for the period from the 31st January 2013 to the 30th January 2016. Officers produced a draft Statement of Principles for this period, which was presented to the Committee at its meeting on the 24th July 2012. Consultation on the draft Statement has now been carried out, and the results are outlined below.
- 1.5. At the time of writing, Dacorum has issued 23 premises licences under the 2005 Act, for high street betting shops [betting (other) licences] and amusement arcades [adult gaming centres]. All applications relating to these licences to date have been dealt with by officers under delegated powers – no application has yet been considered by the Licensing of Alcohol and Gambling Sub-Committee.

2. NATURE OF REVISIONS

- 2.1. The format of the draft Statement of Principles has been revised since the last version, and paragraphs have been extensively rearranged and rewritten to help improve the readability of the document. Paragraph numbers have also been added to aid referencing.
- 2.2. Several changes have resulted from amended legislation, case law, and changes to the Gambling Commission’s Guidance to Licensing Authorities, published since the last version was agreed. A small amount of content has

also been removed from the Statement of Principles, in particular tables showing the stake/prize levels of gaming machine categories (which are set by Regulations, and which in future will be made available as a separate document to allow for easier updating), a glossary of terms (which are defined in primary legislation), and much of the detail about the populace of Dacorum (which is publicly available in alternate documents).

- 2.3. Reference is made throughout the Statement to the 3rd edition of the Gambling Commission's Guidance to Licensing Authorities, the legal document which the Commission are required to publish under section 25 of the Act. The Commission were expected to publish the 4th edition of this Guidance over the summer – however, at the time of writing, this has not yet occurred. It is thought unlikely that significant changes will need to be made to the Statement of Principles as a result of the updated Guidance, beyond verifying paragraph references, which officers will seek to do as and when the revised Guidance is made available.
- 2.4. A number of other minor amendments have been made to the draft Statement during the consultation period, as follows:
 - Minor semantic changes throughout.
 - About Dacorum – updated with Census 2011 data. The map of the Borough has been moved to this section from a separate appendix.
 - Enforcement –reference added to corporate enforcement policy.
 - Appendix C – revised contact details for Herts Fire & Rescue Service.
- 2.5. The revised draft Statement of Principles is appended to this report as Appendix A.

3. CONSULTATION

- 3.1. Consultation on a Statement of Principles (or revision thereof) must be carried out in accordance with section 349(3) of the Act, which requires that the authority consults the chief officer of police for the area, one or more persons representing the interests of gambling businesses in the area, and one or more persons representing the interest of other persons likely to be affected by the exercise of the authorities functions.
- 3.2. Details of the proposed revisions to the Statement were sent to the consultees listed on page 27 of the draft Statement of Principles on the 31st July 2012. The list included all Dacorum Borough Councillors, Herts County Councillors for divisions within Dacorum, the clerks of all town and parish councils within Dacorum, responsible authorities identified under the Act, the holders of premises licences issued by the authority, and gambling trade associations. Details were also made publicly available on the Dacorum website.
- 3.3. A deadline of the 2nd September was set for responses to the consultation. Three responses were received, which are reproduced at Annex A.
- 3.4. Of the responses, two (from the Hertfordshire Fire & Rescue Service and the Association of British Bookmakers) state that they are satisfied with the proposed revisions, and do not propose further changes.

3.5. A further letter, from the Campaign for Fairer Gambling, was also received within this period, expressing concerns about the usage of category B2 gaming machines within betting premises. It must be stressed that the letter does not make clear whether it relates to the review of the Statement, or to the exercise of the licensing authority's functions generally. It is also understood that a similar letter has been sent to most other UK licensing authorities, and the Gambling Commission have published a special bulletin (reproduced at Annex B) in response to this issue. Having considered the letter, it is believed that the section of the draft Statement entitled "Division of Premises and Primary Usage" (page 12 onwards) deals with this issue in sufficient and suitable detail.

4. PROPOSED TIMELINE

4.1. Adoption of the Statement of Principles is a function of the full Council. In order to ensure that the Statement has been adopted in sufficient time so as to take effect from the prescribed date, the following timeline is proposed:

Date	Action
24 th July 2012	Presentation of draft Statement of Principles to Licensing and Health & Safety Enforcement Committee
31 st July 2012	Start of consultation – details sent to identified consultees and published on www.dacorum.gov.uk
2 nd September 2012	Deadline for receipt of responses to consultation
18 th September 2012	Presentation to Licensing and Health & Safety Enforcement Committee of consultation responses and any resulting amendments to the draft Statement of Principles
23 rd October 2012	Cabinet meeting, presentation of draft Statement of Principles with request for endorsement
21 st November 2012	Full Council meeting, presentation of Statement of Principles with request for adoption
2 nd January 2013 (latest)	Publication of adopted Statement of Principles
31 st January 2013	Statement of Principles 2013-2016 to take effect

4.2. Regulations made under the Act require that the adopted Statement of Principles is published and made available for inspection, both on the authority's website and at their principal offices or public libraries, at least four weeks prior to coming into force.

5. RECOMMENDATIONS

5.1. That Committee endorse the draft Statement of Principles for the period 31 January 2013 to 30 January 2016, and refer it to Cabinet and Council for full approval and adoption.

Annex A – Consultation Responses

Ross Hill

From: Ann Lelliott [REDACTED]
Sent: 29 August 2012 15:13
To: Licensing Mailbox
Subject: Gambling Act 2005 - Review of Dacorum's Statement of Principles

Dear Madam

Thank you for your e mail dated 31 July 2012 in respect of the review of the Statement of Principles for the Gambling Act 2005.

We would like to thank you for the opportunity to give our views on the contents of the review but we find that having read through the documents, we have no significant representations to make.

Yours faithfully

Ann Lelliott
Fire Protection Inspecting Officer
South District Fire Protection (Watford & Three Rivers)
Hertfordshire Fire & Rescue Service

(Telephone: [REDACTED] (Comnet [REDACTED])

(Mobile: [REDACTED]

6 Fax: [REDACTED]

* [REDACTED]

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31 AUG 2012		
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Mr Ross Hill
Licensing Team Leader
Dacorum Borough Council
Civic Centre, Marlowes
Hemel Hempstead
Hertfordshire
HP1 1HH

30 August 2012

Dear Mr Hill,

Thank you for your recent letter regarding Dacorum Borough Council's review of its Statement of Principles (Gambling Act 2005).

The Association of British Bookmakers (ABB) is the leading trade association for high street bookmakers and represents the operators of around 7,000 betting shops in the UK, including Gala Coral, Ladbrokes, William Hill and about 130 independent bookmakers.

Betting is an everyday leisure activity which is more popular than ever, with 8 million people visiting betting shops every year. Betting shops are modern leisure retail businesses offering customers state-of-the-art video and audio systems, comfortable furniture, alcohol-free refreshments and friendly staff. They are an important part of the retail mix on high streets generating more footfall than other similar size outlets, apart from post offices and pharmacies.

We also play our part in supporting the UK economy, despite challenging conditions for the industry, contributing nearly £1 billion in tax every year - about £400 million more than we make in profit - and support 100,000 jobs. The industry takes on a relatively high proportion of staff with few qualifications, and provides them with structured training and long term career opportunities.

Betting shops are highly regulated, licensed, responsible businesses who work pro-actively to tackle any issues in communities alongside the police, regulator and local authority.

We believe the Council's existing Statement of Principles has been effective in promoting the licensing objectives as set out in Section 1 of the Gambling Act 2005, and we are satisfied with the proposed Statement of Principles for 2013 - 2016. If the Council decides to consider any further changes I should be grateful if you would let me know.

Please do let me know if you would require further background information on the LBO sector and/or our responsible gambling procedures.

Yours sincerely,

Dirk Vennix
Chief Executive

Association of British Bookmakers, Warwick House, 25 Buckingham Palace Road, London SW1W 0PP
tel: +44 (0)20 7434 2111 fax: +44 (0)20 7434 0444 email: mail@abb.uk.com



LICENSING DIVISION		
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15 AUG 2012		
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The Licensing Officer
 Dacorum Borough Council
 Civic Centre
 Marlowes
 Hemel Hempstead
 Hertfordshire
 HP1 1HH

13th August 2012

Dear Licensing Officer,

High Street Gambling – This should be your “primary” concern

Recently the Department of Culture Media and Sport issued a report on the hearing into the 2005 Gambling Act. A major recommendation was a shift towards more Local Authority (LA) licensing responsibility. The Chairman of the UK Gambling Commission (UKGC) has acknowledged that, based on a 2009 concordat, LAs have a regulatory role over day-to-day compliance and enforcement of betting shop licences.

The recent Dispatches programme, “Britain’s High Street Gamble”, shown on Channel 4 on Monday 6th August 2012, gave a powerful insight into the damaging effects of B2 gaming machines. Yet the Department Culture Media and Sport’s (DCMS) recommendations into legislation around gambling and decentralising licensing powers to LAs has ignored this damaging evidence and as well dismissing proof of problem gambling on B2 machines supplied by Harriet Harman MP, Dr Henrietta Bowden Jones of the NHS Gambling Clinic, findings of the British Gambling Prevalence Survey and information provided by gambling support network, GRASP – all of which can be found on our website www.fairergambling.org.

www.fairergambling.org Email: info@fairergambling.org Tel: 01332 638025

Funded by Prime Table Games UK, Regus House, Herald Way, Pegasus Business Park, Castle Donington, Derbyshire DE74 2TZ
 Represented by bcsAgency Tel: 0115 948 6900 Email: primetablegames@bcsagency.com

Addictive gaming content on B2 gaming machines, has resulted in more betting shops, more machines, more shop clustering and more problem gambling. Betting licences are granted on the understanding that over-the-counter betting is the "primary activity" in betting shops. B2 machines are generating 80% of turnover in betting shops and only 20% comes from over-the-counter betting. These figures show that it is gaming *not* betting which is the main activity inside a betting shop – which means bookmakers are in breach of their betting licenses.

So you already have the power to refuse licences for betting shops on the basis of breach of the primary activity standard.

You also have the power to refuse licences to bookmakers on the basis of breach of the 2005 Gambling Act's objective to prevent problem gambling among vulnerable persons. Are you willing to deny licenses to betting shops and police their abuse of existing licenses?

We urge you to enforce these powers. If you don't feel you have these powers, we urge you to obtain clarification so that you are able to enact your gambling licensing responsibilities.

We look forward to hearing of your moves to deny licenses on either of the above grounds.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Derek Webb', written in a cursive style.

Derek Webb
Founder of the Campaign for Fairer Gambling

GAMBLING COMMISSION

Licensing authority bulletin August 2012 Special edition – primary gambling activity

This special edition of the Gambling Commission's licensing authority bulletin provides clarification on issues around primary gambling activity.

Primary gambling activity: common misunderstandings around betting shops

Licensing authorities will be aware that the Gambling Act 2005 has the effect of restricting B2 gaming machines to betting shops (and casinos). In November 2011 the Commission issued details of the indicators the Commission uses when assessing premises where betting is the primary gambling activity offered. However the question of what constitutes a genuine betting shop continues to be a subject of some debate, with the growing misconception that if gaming machine turnover exceeds betting turnover in a particular shop, it must fail the test of primary gambling activity.

In making judgements about whether individual premises are being run as genuine betting businesses, the Commission needs to take into account both expected and actual use of the betting facilities being provided. What matters is whether there is, or is intended to be, sufficient betting to constitute a genuine betting business. In assessing this the Commission takes account of the actual use of premises in terms of, for example, gross gambling yield (GGY) or the number of bets taken as one of a wide range of factors for consideration.

Other relevant factors include the facilities that are actually in place – like the provision of information that enables the customer to access details of the events on which bets can be made and to be able to place those bets. Customers should be able to obtain details of the outcome of the events, calculate the outcome of their bets and be paid or credited with any winnings. The range and frequency of events on which bets can be made, the relative space allocated to each product and the extent to which betting is promoted are also considered.

Although there is plenty of room for development of niche or novel betting businesses, there is an expectation for all business models to be based on a core genuine betting business. Where actual GGY from betting is low, the Commission is likely to wish to look at the facilities in place and the business projections and marketing plans of the operator. It is also misleading to compare the turnover of over-the-counter betting with that from machines which, on average, pay out around 97% of the amount staked but which rely on players repeatedly re-staking their winnings. A successful (and genuine) betting business may well have a machine turnover greatly in excess of its over-the-counter business. What matters is whether there is, or is likely to be, sufficient betting business, and not whether the return from machines is larger.

Licensing authorities will want to have regard to the primary gambling indicators but must be careful not to just assume there that there must be more profit or turnover from betting than machines to satisfy primary gambling activity.

The simple message is that only genuine betting businesses are entitled to make B2 gaming machines available for use, so the focus is primarily on the facilities for betting and the use made of them. Over the coming months the Commission will continue to work with our partners in licensing authorities and stakeholders from the industry to help improve understanding, to explain the position and refine its published advice to improve accessibility and clarity.

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