

# LICENSING AND SAFETY COMMITTEE

17 OCTOBER 2006

## GAMBLING ACT 2005 - APPROVAL OF STATEMENT OF COUNCIL POLICY

Report from: Deborah Upton, Assistant Director (Legal and Contract and Property Services)

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### 1 INTRODUCTION

- 1.1 The purpose of this report is to ask the Licensing and Safety Committee to consider the proposed Gambling Policy and make any comments thereon. The policy and comments will then be forwarded to cabinet and council for approval on 7 November and 7 December 2006 respectively.

### 2 DECISION ISSUES

- 2.1 The committee is asked to consider the content of the proposed policy and if appropriate, comment thereon. It should be noted that final approval of the document must be made by council as this decision cannot be delegated.

### 3 RECOMMENDATION

- 3.1 That the committee consider the report and make appropriate comments for onward transmission to cabinet and council.

### 4 BACKGROUND

- 4.1 The Gambling Act 2005 creates a new system of licensing and regulation for commercial gambling in this country. Amongst other changes, it gives to local authorities new and extended responsibilities for licensing premises for gambling. In some cases (such as gaming machine arcades), those build on existing responsibilities. But in other major areas, including betting, casino gaming and bingo, they transfer to local authorities responsibilities, which previously lay with local licensing justices.
- 4.2 The new Gambling Act comes fully into force in September 2007 although the "first appointed day" (when the Council can start to receive applications) is 30 April 2007. In preparation, each licensing authority is required to develop, consult on and publish a statement of its licensing policy. The statement must set out the principles which the authority proposes to apply in exercising its licensing functions under the Act. The Act requires this gambling policy statement is approved by the council and published by 31 December 2006.

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:-

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

4.3 At its meeting on 23 May 2006, the committee approved a draft gambling policy for consultation purposes, a copy of which is attached at Appendix A.

4.4 An extensive consultation exercise has been undertaken with the following bodies:-

- The Chief Officer of Police
- Other Council Departments
- Persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area.
- 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 Gambling Act 2005
- A range of organisations including faith groups, voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers , housing associations, medical practices or primary care trusts, advocacy organisations (such as the Citizens Advice Bureau and trade unions), schools, old peoples homes etc
- Other tiers of local government (eg Parish Councils)
- Businesses who are, or will be, holders of a premises licence
- The organisations named as responsible authorities in the Act.

In addition, notices inviting comment were placed in the press, news releases were issued to the media, notices were placed at all council offices and all libraries in the Medway Council area and an article appeared in the Pulse. The notices also advertised an information session. On Friday 1 September between 9am and 12 noon in the Presentation Suite, Civic Centre, Strood. Officers were available to discuss the draft policy and answer questions. Everyone was welcome to attend. In the event, no one attended this session.

4.5 Copies of the consultation responses received are attached at Appendix B.

4.6 The committee is therefore requested to consider the consultation responses and agree the policy for onward transmission to cabinet and council for final approval.

## **5 LICENSING MANAGER'S COMMENTS ON CONSULTATION RESPONSES**

5.1 The comments below refer to the responses as numbered in Appendix B:-

**(a) Gavin Wilders, Safer Communities Manager, Medway Council**

Members will note and may wish to comment upon the response from the Safer Communities Manager. However, it should be noted that (as indicated in the draft policy) Members may wish to make specific requirements in relation to appropriate location of premises.

**(b) St James Isle of Grain Parish Council**

The issues raised are not direct comments on the draft policy document. However, they maybe relevant to individual applications.

**(c) Gamblers Anonymous**

These comments relate to the internal organisation of Gamblers Anonymous and not specifically to the policy document.

**(d) Gamcare (National Association for Gambling Care Educational Resources and Training)**

Points 4 and 6 are relevant for consideration. Points 10 and 12 could more appropriately be considered as licence conditions.

**(e) Poppleston Allen, Solicitors on behalf of Bourne leisure Ltd**

As is stated within the response, it is correct to say that the likely grant / refusal of a planning permission is not something that the licensing authority should have regard to when determining an application. However, on page 11 Section D, the draft policy in fact states this. However, it goes further and indicates that the Council as licensing authority maybe sympathetic in relation to the imposition of conditions on a licence where there maybe conflict with existing planning conditions.

**(f) Showmans Guild of Great Britain**

The comments raised are not relevant to the policy document

**(g) Gosschalks Solicitors on behalf of the Association of British Bookmakers**

This would appear not to be a specific response to the Medway Council policy, but a generic response.

**(h) RAL Ltd, Milton Keynes**

In the main these comments relate to door supervision. The Council can impose individual conditions on licences on an application by application basis.

**(i) BACTA**

Interim acknowledgement - nothing further received.

**(j) Gambling Commission**

Interim acknowledgement - nothing further received

5.2 Members are asked to consider the above comments and the extent to which they should be reflected in the policy document.

**6 LEGAL IMPLICATIONS**

6.1 The legal implications are dealt with within the body of the report. It should be noted that an inappropriately worded policy could result in a legal challenge by way of judicial review.

6.2 The policy has been prepared taking account of the guidance issued by the Gambling Commission in April 2006.

**7 FINANCIAL IMPLICATIONS**

7.1 There are no direct financial implications for Medway Council concerning this matter at present. However, if at any time in the future the policy was subject to legal challenge, there could be costs associated with this process.

**8 CONCLUSION**

8.1 Members are requested to consider the report and make appropriate comments on the policy document for onward transmission to cabinet and council for final approval.

**9 BACKGROUND PAPERS**

1. Gambling Act 2005
2. Gambling Commission Guidance April 2006
3. Draft Gambling Act Policy (see Appendix A)
4. Responses to consultation exercise (see Appendix B)