

**Environment & Regeneration  
Municipal Offices, 222 Upper Street, London N1 1YA**

**Report of:** Service Director, Public Protection

Meeting of	Date	Agenda Item	Ward(s)
Licensing Committee	2 November 2009	B1	All

Delete as appropriate	Exempt	Non-exempt
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If exempt under para.10.4, category (1-7) of the Access to Information Rules in Part 4 of the Constitution rules give reasons. Because: **(Please delete if not required)**

**Subject: GAMBLING ACT 2005, Revision of Licensing Authority Policy Statement**

**1. Synopsis**

- 1.1 This report sets out how Public Protection is conducting a review of the current Gambling Policy Statement. The Council is required to review the policy statement every three years. Accordingly the Council must conduct a review, adopt any revisions and publish a new policy statement by 2 January 2010. The policy will continue to support the 'One Islington' vision by ensuring that residents and businesses are involved in shaping our approach to this legislation. In response to feedback received during the current consultation, Public Protection are seeking Counsel opinion over the possibility of adopting more stringent policies to resist the growth of gambling opportunities in the Borough, particularly "split premises" type applications, to protect the vulnerable members of our community.

**2. Recommendations**

- 2.1 To note the arrangements for preparing and publishing a revised 'statement of principles' for regulating gambling in Islington and for consulting on a continued 'no casinos' resolution for Islington and make comments on the draft 'statement of principles'.

### **3. Background**

#### **3.1 Statement of Principles**

3.2 The responsibility for regulating gambling passed from the Gaming Board and the Magistrates Court to the Gambling Commission and Local Authorities in 2007.

3.3 Since 2007 the Gambling Commission has been responsible for granting operating and personal licences for commercial gambling operators and people working in the industry. It also regulates certain lottery managers and promoters.

3.4 Licensing authorities now have a number of important regulatory functions in relation to licensing premises for gambling including:

- Issuing premises licences for Adult Gaming Centres, Betting Shops, Bingo, Casinos and Family Entertainment Centres;
- regulating gaming and gaming machines in clubs, and on alcohol licensed premises;
- granting permits to family entertainment centres for the use of certain lower stake gaming machines;
- granting permits for prize gaming;
- registering Small Society Lotteries;
- Tracks.

3.5 The Licensing Service within Public Protection are responsible for carrying out the regulatory functions. The service provision has been modelled on that adopted for Licensing Act 2003, which has been successful in both encouraging resident participation in the application process and managing the impacts that licensing can have on the community.

3.6 The licensing objectives, which underpin all activities under the Act, are:

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

3.7 All local authorities are required to prepare and publish a 'statement of principles' which in effect sets out its policy on how it intends to exercise its functions under the Act. The statement must be reviewed at least every three years but can be reviewed and revised at any time by the local authority. The current statement of principles was approved by the Council on 5 December 2006, published on 20 December 2006 and took effect as of 31 January 2007. In order to meet the timescales imposed by the Act, a revised statement of principles must be published by 2<sup>nd</sup> January 2010. In preparing the statement of principles, local authorities are required to have regard to any relevant codes of practice issued under the Act and any guidance issued by the Commission.

3.8 In order to meet the statutory deadline, our timescale for preparing and publishing the revised draft statement of principles for Islington are as follows:

July/August 2009

Redraft statement of principles

21 August 2009	Consultation period starts
2 November 2009	Licensing Committee to consider revisions
13 November 2009	Consultation period ends
19 November 2009	Drafting final statement of principles completed
3 December 2009	Council to consider revised statement of principles
2 January 2010	Deadline for Notice and publication of revised policy
31 January 2010	New policy takes effect

3.9 The revised draft 'statement of principles' is attached at Appendix A for discussion.

3.10 A consultation strategy has been initiated which follows the Gambling Commission's guidance to Local Authorities and consultees include the following:

- Responsible Authorities such as the Metropolitan Police, Fire Brigade, Customs and Excise and any body which the local authority deems as competent to advise about protecting vulnerable people and children from harm
- Organisations who represent the interests of gambling businesses in the area
- Organisations representing the interests of people likely to be affected by gambling activities
- Islington Councillors
- Islington's Town Centre Managers
- Faith groups, voluntary and community organisation working with children and young people
- Organisations working with people who are problem gamblers, medical practices and Primary Care Trusts.
- Neighbouring Boroughs.

3.11 Letters and emails were sent out to the above consultees and representative organisations and the draft revised statement of principles was published on Islington's web site.

3.12 In response to the consultation concern has been raised about the expansion of gambling premises in the borough and the "split premises" type applications. In response to the feedback a draft amendment to the statement of policy has been prepared and referred to Counsel for advice on its inclusion. A copy of the draft amendment is attached. Any response from Counsel will be tabled at the meeting.

## 4 **Casinos**

### 4.1 **Casino Resolution**

4.2 The Act states that the Licensing Authority may resolve not to issue casino premises licences. This decision must be taken by the authority as a whole and not delegated to the Licensing Committee. In passing such a resolution the Authority may take into account any matter and not just the licensing objectives. The resolution lapses after three years and all Local Authorities are recommended to pass a resolution every three years at the same time as agreeing its statement of principles

4.3 In December 2006 the Council resolved not to issue any premises licenses for casinos. As part of the current consultation we have sought views on the 'no casino' resolution. To date there have been no views expressed for or against the resolution. Furthermore the Council has not been approached by any potential casino operators. It is anticipated that the Council will be asked to maintain the no

casino resolution in December.

## **5. Discussion**

- 5.1 The ability of the council to regulate gambling activities in the borough supports the One Islington vision as it provides an opportunity for the council and its partners to have more direct influence on the determination of licence applications. Residents who are, or who could be, affected by the premises providing gambling will have more of an opportunity to influence decisions and the council will be able to work with others to protect children and vulnerable people from being harmed or exploited by gambling activities.
- 5.2 The preparation of a policy on gambling for Islington is a key tool in this process. Many aspects of the policy are prescribed by statutory provisions and guidance issued by the Gambling Commission. This may be why there has been little, or no, response to the consultation exercise. The one issue that has been raised, concerns the introduction of a saturation type policy to restrict the expansion of gambling opportunities in the Borough to protect the vulnerable. The matter has been referred to Counsel for legal opinion, who have been asked specifically:
- i) the extent to which our policy can control or restrict applications for split premises;
  - ii) whether the Gambling Act could permit a Licensing Authority to have a saturation type policy.
- 5.3 Councils have the ability to make a resolution whether or not to permit casinos in the borough. The resolution needs to be reconsidered every three years. Prior to the decision to adopt a 'no casino' resolution in December 2006, 76% of respondents to the consultation were against having a casino in Islington. To date there is nothing to suggest that this position has changed.

## **6. Implications**

### **6.1 Financial implications:**

There is no additional funding available for this activity and therefore the work described in this report will be undertaken within existing resources.

### **6.2 Legal implications:**

A licensing authority may resolve not to issue casino premises licences. The exercise of this power by the licensing authority is one that may not be delegated to the licensing committee. No criteria for the exercise of the power are set out in the Gambling Act 2005; rather the Act states that in passing such a resolution a licensing authority 'may have regard to any principle or matter'. This provision confers a virtually unlimited and unfettered discretion on the authority.

However, the local authority would be subject to the usual principles of public law in exercising their discretion. To make such a resolution the discretion would have to be exercised reasonably and in good faith, for proper purposes only, and in accordance with the spirit of the Gambling Act 2005. The Act does not provide for

the exercise of the discretion to be conditional upon any form of consultation, but public law principles would again be engaged and it would be advisable for the licensing authority to consult relevant parties. This consultation could be conducted alongside the consultation on the 'statement of principles'.

A resolution must apply to the issue of casino licences generally. It would not be possible for a licensing authority to resolve, for example, against granting casino premises licences for regional and large casinos but to leave their discretion intact in the case of small casinos. The resolution must specify the date on which it takes effect. The resolution lapses at the end of three years, though it may be revoked before then by further resolution. A resolution may be passed whether or not the licensing authority have already issued casino premises licences.

The Executive has authority to delegate to the Director of Environment and Regeneration to make changes the draft gambling policy following the consultation, prior to it being presented to Council in December.

### 6.3 **Equality Impact Assessment**

The Equalities Impact Assessment for the proposal will be carried out and reported when it is presented to Council in December 2009.

## 7. **Conclusion and recommendations**

- 7.1 The Gambling Act provides that Licensing Authority must aim to permit the use of premises for gambling in so far as the authority thinks it, among other factors, in accordance with its statement of principles. It is therefore important that the authority adopts a robust policy to control gambling within the Borough.

### **Background papers:**

Gambling Act 2005

Gambling Commission – Guidance to Local Authorities

Final report clearance:

Signed by:

Received by:	Service Director (Public Protection)	Date
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	Head of Democratic Services	Date
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Report progress: Meeting Dates: