

**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	23 November 2009	3	All

Delete as appropriate	Exempt	Non-exempt
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Subject: GAMBLING ACT 2005, Revision of Licensing Authority Policy Statement

1. Synopsis

- 1.1 On 2 November 2009 the Licensing Committee met to consider Public Protection's arrangements for preparing and publishing a revised 'statement of principles' for regulating gambling in Islington, for consulting on a continued 'no casinos' resolution for Islington and make comments on the draft 'statement of principles'. At the meeting it was resolved that: the consultation would be extended to include other potential stakeholders; Members would be supplied with advice notes and a gambling premises 'best practice guide'; a further meeting of the Licensing Committee would be held before the draft policy statement was referred to the Council meeting for approval on 3 December 2009.

2. Recommendation

- 2.1 To consider the draft gambling policy statement and supporting documents, which have been amended in response to feedback received during the consultation process.

3. Background

3.1 Statement of Principles

- 3.2 On 2 November 2009 the Licensing Committee met to consider Public Protection's arrangements for preparing and publishing a revised 'statement of principles' for regulating gambling in Islington, for consulting on a continued 'no casinos' resolution for Islington and make comments on the draft 'statement of principles'. A copy of the minutes from the meeting are shown as Appendix 1.
- 3.4 Following the meeting, the following additional parties were immediately consulted:
Islington's Housing and Adult Social Services
Islington's Children Services
Islington's Metropolitan Safer Neighbourhood Teams

It should be noted that the following parties had already been consulted:

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.

- 3.5 The consultation period ended on 13 November 2009 and two formal responses have been made.
- 3.6 The first response was tabled by the Licensing Service at the meeting on 2 November 2009 and as a consequence a number of changes were made to the draft policy. Furthermore many of the suggested amendments were incorporated into a gambling premises 'Best Practice' document, which has been attached to the draft policy as a new appendix. A new 'Standards of Management' policy has been included in the draft policy, which makes reference to the best practice document. A copy of the latest draft of the policy, including the 'best practice' document is attached to this report as Appendix 2.
- 3.7 A second response from the Business and Town Centre Team, shown as Appendix 3, made a number of suggested amendments and comments:

"There should be a percentage limit on the number of certain types of businesses within a given area".

This suggestion supports the introduction of a saturation type policy. The Council is still awaiting legal advice from Counsel on this matter and as soon as that advice is received members will be updated.

"Business representative bodies such as Town Centre Management Groups

or Business Improvement Districts in the area should be invited to make formal representations on behalf of the business community.”

Under the Gambling Act, interested parties include those bodies that represent those with business interests that might be affected by gambling activities. This definition would appear to include these bodies. At present there is a statutory duty on applicants to notify responsible authorities when application is made and advertise the application by way of public notice on the premises and in a local newspaper. In addition the Licensing Service notifies local residents and Ward Councillors. In response to this specific request the Licensing Service will notify the Town Centre Management Group when new and variation applications are made by electronic means.

“As a matter of course, those with dwellings / business interests / community interests (e.g. youth clubs) within an immediate radius to an application should also be formally notified.”

As stated, the Licensing Service notifies local residents, who reside within 50 metres, when new and variation applications are made. This is in line with the approach taken with applications under the Licensing Act 2003. This consultation is in addition to the statutory requirements and the Council receives no extra funding to support this extra work. To increase the consultation yet further would have obvious resource implications and it is recommended that consultation remains the same. It has already been proposed to include the TCMG in consultation and it suggested that this group take responsibility for notifying relevant parties within its network.

“the policy should examine the level of deprivation in any given area when considering an application”

The draft policy has been amended to include reference to levels of deprivation in the area under policies relating to premises licences.

- 3.8 At the request of Members the Licensing Service has prepared a guidance document to assist interested parties understand Islington Council's role as Licensing Authority and how they may make representation. A copy of the guidance document is attached as Appendix 4. A copy of the Gambling Commission's Codes of Practice is attached as Appendix 5 for information purposes. The codes of practice set out the Gambling Commission's conditions for gambling operator and personal licence holders.
- 3.9 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 as appendix 2 of the draft policy. 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 response to the consultation exercise. One key 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.

We are still awaiting a response from Counsel and as soon as it is received it will be made available to Members.

- 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:
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