

APPENDIX P

WAVERLEY BOROUGH COUNCIL

LICENSING AND REGULATORY COMMITTEE – 17TH NOVEMBER 2009

EXECUTIVE – 1ST DECEMBER 2009

COUNCIL – 15TH DECEMBER 2009

Title:

**GAMBLING ACT 2005 - PUBLIC CONSULTATION ON REVIEW OF THE
COUNCIL'S STATEMENT OF GAMBLING POLICY**

[Wards Affected: ALL]

Summary and purpose:

The purpose of the report, which was considered by the Licensing and Regulatory Committee at its meeting on 17th November, is to enable the Council to consider comments on the three-year review of the Statement of Gambling Policy for Waverley, against which applications for licences under the 2005 Gambling Act ("the Act") are considered.

How this report relates to the Council's Corporate Priorities:

Regulating gambling in the borough appropriately contributes towards Improving Lives.

Equality and Diversity Implications:

If not properly regulated gambling can have adverse effects on social inclusion and community cohesion.

Resource/Value for Money implications:

There are no immediate resource implications.

Legal Implications:

There are legal implications for the Council in that it will need to be prepared to defend the revised Policy, if challenged. Members will note that the existing Policy has worked well for the past three years. There are also Human Rights considerations in the new processes under this Act, and these will be taken into account.

Statement of Gambling Policy - public consultation

1. The Council, as Licensing Authority, is required under the Gambling Act 2005 to review its Statement of Gambling Policy regularly, and at least on a three-

yearly basis. The existing Policy was published on 3rd January 2007 and came into effect on 31st January 2007, in readiness for introduction of the Gambling Act 2005, which took effect in September 2007. The Policy can be found at www.waverley.gov.uk/gambling.

2. A copy of the existing Statement of Gambling Policy, with the Licensing & Regulatory Committee's proposed amendments shown as tracked changes, is attached at Annexe 1.
3. The consultation had been by a written process to all Responsible Authorities, bodies representing existing licence holders, representatives of registered clubs, businesses and residents in the Borough, Town and Parish Councils, others who have expressed interest, and via the Council's website.
4. The Policy had worked well for the Licensing Authority and no adverse comments had been made by the Responsible Authorities designated under the Act. There had been one written response to the consultation, from Gamcare, which is attached at Annexe 2. This was received on 11 June 2009, within the consulting period and before the closing date of 24 August 2009.

Legal Implications

5. The Council's Statement of Gambling Policy is a key framework within which the Council considers applications. This framework is also comprised of the three licensing objectives detailed in the Act, as set out below, and guidance issued by the Gambling Commission under section 25 of the Act. The three Licensing Objectives are:
 - Prevention of Gambling being a source of Crime and Disorder, being associated with Crime and 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.

Fees and licences - for background information

6. For information, the fees for licences set by the Government under the Act are as follows, together with some facts and figures to date:-

	<u>Fee</u>	<u>Duration</u>
Premises licence	£1800	Life of business (If annual fee paid)
Premises annual fee	£360	1 year
Re-instatement	£720	
Variation	£900	
Transfer	£720	
Temporary use notices	-----	Up to 21 days
Occasional use notice	Inform only	Up to 8 days

7. Since the introduction of the Act, the Council had experienced no issues with any of the gambling premises in the Borough. The Council licenses eight betting premises and received one regular yearly Occasional Use Notice for a point-to-point race at Peperharow.

Human Rights Implications

8. The Human Rights Act 1998 incorporated into English law the protection of human rights enshrined in the European Convention on Human Rights (ECHR). The Council must have regard to the human rights of individuals affected by its decisions. Although there were no direct implications in this report, the Council would have regard to the following matters in considering applications for licences under the Act.
9. Article 1 of the First Protocol of the ECHR provides for the protection of private property and possessions. In addition to Article 1 of the First Protocol, the Council must comply with the principles of Article 6, which provided for the right to a fair hearing in determining civil rights and obligations. This necessitated a fair and public hearing undertaken within a reasonable time by an independent and impartial tribunal established by law. In providing for determination of licensing matters by a local authority the legislation also provided for appeal to the magistrates' court, so that there was access to an independent and impartial tribunal and a public hearing.
10. Article 8 of the Convention says that everyone has the right to respect for his private and family life, his home and his correspondence. Accordingly, when making decisions on the grant of licences, the Council (the Committee) would consider representations on the effect of businesses on the amenities of residents living in the vicinity of premises which benefit from the licences.

11. Licensing and Regulatory Committee

The Committee noted that the Policy had worked well for the Licensing Authority and no adverse comments had been made by the Responsible Authorities designated under the Act. There had been one written response to the consultation, from Gamcare, who made suggestions regarding support and help they could offer in counselling, training and distribution of leaflets. Members considered that it would be very helpful for information leaflets to be made available in all types of premises licensed by the Council.

12. The Committee recognised that the fees were set by the Government, but queried the fact that there was no charge for an Occasional Use Notice. Officers advised that an applicant was only obliged to inform the Licensing Authority of such an event and that no objections could be raised.
13. During consideration of the Statement of Gambling Policy the Committee drew particular attention to the section of the Statement on the Council's enforcement role. The Committee considered that enforcement was a particularly important role for the Council in exercising its responsibilities under the Gambling Act 2005. Members were aware that resources for

enforcement had recently been reduced and expressed some concerns and asked that the situation on enforcement be reviewed in six months time.

Conclusion

14. The Executive is asked to consider the comments from the Licensing and Regulatory Committee on the Statement of Gambling Policy and make its recommendations for approving the Policy to Council. The Policy is ultimately set by the Council as part of the Policy Framework, on the recommendation of the Executive, and the activity under the Policy is the remit of the Licensing & Regulatory Committee and its Licensing Act Sub-Committees.

Recommendation

It is recommended that the Executive consider the comments of the Licensing & Regulatory Committee and make recommendations to Council so that the Council can approve the new Statement of Gambling Policy 2010-2013 for Waverley.

Background Papers (CS&P)

Waverley's Statement of Gambling Policy and representations received in response to the consultation.

CONTACT OFFICER:

Name: Daniel Bainbridge

Telephone: 01483 523235

E-mail: daniel.bainbridge@waverley.gov.uk

Paul Hughes

Telephone: 01483 523189

E-mail: paul.hughes@waverley.gov.uk