

THE CAITHNESS DIVISION OF THE HIGHLAND LICENSING
BOARD

Agenda Item	2
Report No	C/LB/198/06

GAMBLING ACT 2005 – DRAFT POLICY STATEMENT

Report by Clerk

SUMMARY

To report on the introduction of the Gambling Act 2005 and to seek the Board's approval for a draft Policy Statement.

1. As from 1st January 2007, Licensing Boards will be responsible for certain types of Gambling Consents.
2. The Gambling Act 2005 replaces gambling laws that are more than forty years old and also repeal all the existing Betting, Gaming and Lotteries and Amusements Legislation.
3. The Act has three objectives :-
 - To protect children and other vulnerable people from harm
 - To prevent gambling being a source of crime or disorder, and
 - To ensure that gambling is conducted in a fair and open way
4. The Act introduces two Licensing Authorities being The Gambling Commission and The Highland Licensing Board. The Gambling Commission is responsible for taking a strategic overview and for the granting of certain licences mainly operating licenses and personal licences. The Board being responsible for granting premises licences which in the Highlands will be Bingo Premises, Betting Premises, Adult Gaming Centres and Family Entertainment Centres. These last two are new categories. The Licensing Boards will also take overall responsibility for the licensing of gaming machines. It is not known how many machines are in the Highlands as there were previously four different Authorities responsible for this but there is believed to be approximately two thousand throughout the Highlands
5. The first elements come into effect on 1st July 2007.
6. Timetable

The introduction of the legislation will be difficult to manage. The transitional period will come in at the same time as the liquor licensing transition. To complicate matters, although the principal legislation is reserved to Westminster the subsidiary legislation is not. A very brief transition period is anticipated. However, as Licensing Boards are yet to learn what parts the subsidiary legislation is, it is extremely difficult to make any advance plans.

7. The first action the Licensing Board has to take is to approve a draft Statement of Principles. A copy of this is attached and is recommended for approval.
8. As in the past there has been no distinguishable difference between any of the Highland Boards in their treatment of Gaming Applications similar Policy Statements are being considered by the other Divisional Boards.
9. After approval of the draft Policy the Board has to go through a wide consultative process and rather than undertake this process eight times it makes more sense to carry out the one consultation.
10. When the final Policy is submitted to each of the Divisional Boards it will be the Divisional Board itself that has the final approval.
11. The Policy Statement itself is largely self-explanatory and I have listed the types of licences and applications which will be considered in the future. It is anticipated that more detailed training will be provided to members as and when the details of the Regulations are known.

<p>RECOMMENDATION</p>

<p>Approve draft Policy and prospective consultees.</p>

Signature:

Designation: Depute Clerk

Date: 25th July 2006

Background Papers

Ref: Gambling Act 2005

<http://www.opsi.gov.uk/ACTS/acts2005/20050019.htm>

Statutory Instrument – Policy Statement

<http://www.opsi.gov.uk/legislation/scotland/ssi2006/20060154.htm>

GAMBLING ACT

DRAFT POLICY STATEMENT BY THE HIGHLAND LICENSING BOARD on the GAMBLING ACT 2005

1. The Licensing Board (hereinafter referred to as “the Board”) is responsible for licensing under the Gambling Act for the
It comprises Wards to inclusive of the ward boundaries of the Highland Council constituted under the Local Government etc. (Scotland) Act 1994.
2. In terms of Section 349 the Board is required to prepare a Statement of the principles that they propose to apply in exercising the functions under the Act and publish the Statement.
3. This Policy Statement follows on Section 349.

FUNDAMENTAL PRINCIPLES

4. The Board will promote in this Policy the following objectives :-
 1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 2. Ensuring that gambling is conducted in a fair and open way; and
 3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

LICENCES

5. The Act provides for three types of licence :-

- Operating licences
- Personal licences
- Premises licences

The Board will be responsible for issuing premises licences. Operating licences and Personal licences are reserved to the Gambling Commission.

6. In exercising the Licensing powers and responsibilities under the Act, the Board will aim to permit the use of premises for gambling as long as it is considered to be :-
 - In accordance with any relevant Codes of Practice issued by the Gambling Commission

- In accordance with any relevant guidance issued by the Gambling Commission
- In accordance with this Statement of Principles, and
- Reasonably consistent with the fundamental principles

The Board in making a decision in respect of an application under the Act shall not have regard to whether or not a proposal is likely to be permitted in accordance with the law relating to planning or building or any other statutory requirement which might be required in connection with the operation of a licence.

7. DEMAND

Each application will be considered on its own merits without regard to demand.

8. CHILDREN

When considering whether to grant a premises licence or permit the Board will consider whether any measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs betting tracks etc.

In seeking to protect vulnerable people the Board will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.

Children (defined in the Act as under 16s) and young persons (16 – 17s) may take part in private and non-commercial betting and gaming but the Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place. An adult is defined as 18 and over.

In summary :-

- Betting shops cannot admit anyone under 18.
- Bingo clubs may admit those under 18 but must have policies to ensure they do not gamble, except on category D machines
- Adult Entertainment Centres cannot admit those under 18
- Family Entertainment Centres and premises with an alcohol premises licence such as pubs) can admit under-18s, but they may not play category C machines which are restricted to those over 18
- Clubs with a club Premises Certificate can admit under-18s, but they must have policies to ensure those under 18 do not play machines other than category D machines
- Tracks will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.

The Board will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.

In terms of Section 157 (h) The Highland Council, per the Directors of Social Work and Education, Culture and Sport are the body designated as competent to advise the Board about the protection of children from harm.

9. INTERESTED PARTIES

The Board shall have regard to the provisions of Section 158 of the Act for the purpose of ascertaining if any person is an interested party in relation to a premises licence or in relation to an application for in respect of a premises licence. An interested party will be a party who (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities, (b) has business interests that might be affected by the authorised activities, or (c) represents persons who satisfy paragraph (a) or (b). In such case, such a person shall, if called upon to do so, shall produce a Mandate to demonstrate such representation.

10. EXCHANGE OF INFORMATION

The Board will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Board will also have regard to any guidance issued by the Gambling Commission to it on this matter when it is published as well as any relevant Regulations issued by the Scottish Ministers under their powers provided in the Gambling Act 2005.

Details of applications and representations which are referred to a Board for determination may be published in any statutory reports.

Personal details of people making representations will be disclosed to applicants and may only be withheld from publication on the grounds of personal safety where the Board has been asked to do so.

11. ENFORCEMENT

Boards are required by regulation under the Gambling Act 2005 to state the principles to be applied by the Board in exercising the functions under Part 15 of the Act with respect to the inspection of premises.

The Board's principles are that :

It will be guided by the Gambling Commission's Guidance for Boards and it will endeavour to be :

- Proportionate. It will only intervene when necessary, remedies will be appropriate to the risk posed, and costs identified and minimised.
- Accountable, with decisions being justifiable, and be subject to public scrutiny.
- Consistent: rules and standards will be joined up and implemented fairly
- Transparent and open. Licence conditions will be kept simple and user friendly; and

- Targeted: regulation should be focused on the problem, and minimise side effects
The Board will avoid duplication with other regulatory regimes so far as possible.

The Highland Council will employ Licensing Inspectors under Section 304 of the Act and shall, for the purposes of this Act, be the “Local Authority Authorised Person”. Their powers are set out in Sections 309, 310, 311 and Section 314.

The main enforcement and compliance role for this Board in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises.

The Gambling Commission will be the enforcement body for the Operator and Personal Licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Board but will be notified to the Gambling Commission. This Board also understands from LACORS (Local Authorities Coordinators of Regulatory Services) (www.lacors.gov.uk) that the Gambling Commission will be responsible for compliance as regards unlicensed premises.

The Board will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Boards.

11. TYPES OF LICENCE

The types of licence permit which may be granted by a Board are for :-

- (a) Premises Licences
- (b) Gaming Centres
- (c) Licensed Family Entertainment Centres
- (d) Bingo Premises
- (e) Betting Premises
- (f) Track licences
- (g) Travelling Fairs
- (h) Temporary and Occasional Permits
- (i) Licensed premises, Gaming Machine Permits
- (j) Prize Gaming Permits
- (k) Club, Gaming and Club Machine Permits

LASTLY

This statement is a general approach on the exercise of the functions under the Act. Nothing in this Policy Statement will override the right of any person to make an application under the Act and to have the application considered on its merits. Nothing in this policy will prevent or hinder the right of any person to make representations on any application or to seek a review of the licence where this is permitted under the Act.

APPENDIX A

Notice of this Policy was advertised in _____ Newspaper and in determining the Policy the Board will have taken into account any unsolicited comments received from members of the public.

The following parties have also been consulted.

1. Chief Constable, Northern Constabulary
2. The Directors of Social Work and Education, The Highland Council
3. The Association of Community Councils in
4. Inverness and Highland Licensed Trade Association
5. BACTA (British Amusement Catering Trade Association) Alders House, 133 Aldersgate Street, London EC1A 4JA.
6. CAC Leisure plc, 28 Allanpark, Stirling FK8 2LT

The consultation took place between _____ and _____ and a draft of Policy was also available for examination on The Highland Council's website. Should you have any comments as regards this document please send them via e-mail or letter to the Clerk, Highland Licensing Board, Town House, Inverness at donald.somerville@highland.gov.uk

APPENDIX B

The Policy Statement will be available for inspection at any Highland Council Service Point and also on Highland Council's website under the Gambling Section.