

LICENSING COMMITTEE: 7th November 2006

Report of the Chief Strategic Planning and Environment Officer

**GAMBLING ACT 2005 – FINALISATION OF THE STATEMENT OF
GAMBLING LICENSING PRINCIPLES**

1. Background

1.1 Under Section 349 of the Gambling Act 2005 every Licensing Authority has to publish a Statement of Licensing Policy which sets out the principles that it proposes to apply in exercising its functions under the Act. The statement must be determined for a three year period in consultation with:

- The Chief Officer of Police
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area
- One or more 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

1.2 The Statement of Licensing Policy must be published before any applications for Gambling Premises Licences can be determined by the Authority. The Gambling Commission has provided guidance to local authorities on what Statements of gambling licensing policies should contain and this has been relied upon in preparing a draft policy statement. The determination and publication of its Statement of gambling licensing policy is a matter for the Authority and the Statement of Gambling Policy will require the formal approval of the Executive and Council prior to its publication.

1.3 This report is to request the approval of the Committee for the submission of the Statement of Gambling Licensing Policy (SGLP) to full Council and the Executive for approval following the public consultation exercise which has been undertaken. A copy of the Final Statement of Gambling Licensing Policy is attached as Appendix A.

2. Preparation of the Gambling Licensing Policy Statement

2.1 Section 349 of the Gambling Act requires a licensing authority to prepare before each successive period of three years, a statement of the principles that they propose to apply in exercising their functions under the Act during that period. This Section of the Act was brought into force by the Gambling Act 2005 (Commencement No. 3) Order 2006 on 31 March 2006.

2.2 Under Section 154 of the Act the licensing authority must approve the policy and may not delegate this to its Licensing Committee. In Wales, the split of

functions between the Executive and the Council have not yet been amended to reflect the gambling licensing function and it will therefore be necessary to have the policy endorsed by both the Council and the Executive. This situation may change if the National Assembly for Wales makes the necessary Regulations later this year.

- 2.3 The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 came into force on 31 March 2006 and set out the requirements on licensing authorities as to the form and publication of the Statement of Gambling Licensing Policy.
- 2.4 Section 25 of the Act requires the Gambling Commission to produce guidance to local authorities on the manner in which they are to exercise their functions under the Act. Licensing Authorities must have regard to this guidance which was published on 28 April 2006 and issued by the Gambling Commission on 2 May 2006. The guidance has been relied upon extensively in establishing a Statement of Gambling Licensing Policy.

3. Public Consultation on the Statement of Licensing Policy.

- 3.1 The draft SLP as approved by Licensing Committee at its meeting on 4 July 2006 was published for public comment during the period 4 July 2006 to 29 September 2006 for members of the public, responsible authorities, trade and businesses to make observations on the draft. A number of organisations were consulted directly on the contents of the draft, details of which are attached as Appendix B.
- 3.2 Promotion of the draft SGLP for public consultation was achieved through:
 - a) Publication on the Council Licensing Website at www.cardiff.gov.uk.
 - b) Circulating the draft SLP to:
 - All Responsible Authorities
 - All Councillors
 - All Corporate Directors and Chief Officers
 - All organisations that have previously indicated an interest.
 - c) Making copies of the draft SLP available at a wide variety of service delivery points such as Central and branch Libraries.
 - d) Inserting an advertisement in the Local Press.
 - e) Issuing a media release raising awareness of the SLP and how it affects the residents and business in Cardiff.
 - f) Making the Statement available for inspection at all reasonable times in the Licensing Office
- 3.3 The Draft Statement of Policy has been amended to reflect the views of consultees and is attached as Appendix A.

4. Results of the Consultation.

- 4.1 The Draft Statement of Policy has been amended to reflect the views expressed by those who have responded to the consultation. Details of the

comments received as a result of the Consultation Exercise and the amendments are contained in Appendix C.

- 4.2 Although it is not strictly necessary to include in the statement details of how the authority will deal with the gambling permits it issues, in view of the comments received it is considered appropriate to include the authorities existing policy in respect of Amusement with Prize Machines and Amusement Arcades.
- 4.3 The scope of the policy has been amended in Section 2 to provide a definition of the gambling activities the authority will assume responsibility for.
- 4.4 To assist applicants advice on possible licence conditions has been included in Section 5.3 of the SGLP.

5. Timescale

- 5.1 A SGLP is necessary before licences can be issued under the new system and all licensing authorities will need to have the statement in place for publication by 3 January 2007.
- 5.2 The Gambling Act 2005 (Licensing Authority Policy Statement) (First Appointed Day) Order 2006 set the first appointed date as 31 January 2007.

6. Achievability

The introduction of a Statement of Gambling Licensing Policy contains no equality, personnel or property implications. Implementation of the legislation, if approved, will have personnel and financial implications which will need to be considered. Licence fees will be determined centrally and until announced the overall financial position cannot be calculated.

7. Legal Implications

- 7.1 Legal implications appear in the body of this Report.
- 7.2 The legislative provisions place a requirement on licensing authorities to issue a Statement of Gambling Licensing Policy (SLP) by 3 January 2007. The Government's intention was that the full Council be required to approve the SGLP for publication. The majority of licensing matters are considered by the Council or its Committees rather than the Executive. However, as the Gambling Act 2005 has not yet been included on the Schedule of licensing functions under the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 it is prudent to also seek Executive approval.
- 7.3 All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural

requirements imposed by the Council e.g. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.

8. Financial Implications

- 8.1 The costs of public consultation has been met from the existing licensing budget which is required to be self financing with all costs being recovered from licence fees and charges which are reviewed annually. The proposed legislative changes are likely to impact upon fee income levels, but that at this stage the exact implications are unknown due to the fee levels not yet having been finally determined.
- 8.2 The DCMS has stated that under the new regime there will be a system of standard fees set by the Secretary of State to be established in secondary legislation. The Department has consulted local authorities on the appropriate level of fees and Cardiff Council has made recommendations in their response.

9. Recommendation

It is recommended that Committee commend the finalised Statement of Licensing Policy to the Council and the Executive for approval prior to its publication.

Sean Hannaby
Chief Strategic Planning and Environment Officer

9th October 2006

This report has been prepared in accordance with procedures approved by Corporate Directors.

Background Papers:

1. Report to the Licensing Committee of 4th July 2006 entitled "Licensing Reform – Statement of Gambling Licensing Policy."

APPENDIX A

STATEMENT OF GAMBLING LICENSING POLICY

1. Introduction.

Under the Gambling Act 2005 every Licensing Authority has to publish a Statement of Licensing Policy which sets out the principles that it proposes to apply in exercising its functions under the Act. Accordingly, this Statement has been prepared by Cardiff Council in accordance with the provisions of the Gambling Act 2005 and its Regulations. The Statement covers the geographical area of the City and County of Cardiff.

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The Gambling Act 2005 requires that the following parties are consulted by Licensing Authorities:

- The Chief Officer of Police
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area
- One or more 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

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As part of the development of this Statement various partners were engaged in consultation and their views have been taken into account. In particular the consultation partners have included:

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- South Wales Police
- South Wales Fire Authority
- Cardiff Community Safety Partnership
- Cardiff Council Pollution Control Section
- Cardiff Council Health and Safety Section
- Cardiff Council Children's Services
- Cardiff residents
- Trade organisations
- Charitable organisations
- Her Majesty's Commissioners for Customs and Excise
- The Gambling Commission

In preparing this Statement of Gambling Licensing Policy the authority declares that it has had regard to the legislation, licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission and any relevant codes of practice and the comments received from all those it has consulted. This policy Statement, which will come into effect on 31 January 2007, will be monitored constantly and will be formally reviewed every three years.

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2. Purpose and Scope of the Statement of Gambling Licensing Policy.

2.1 'Gambling' is defined in the Act as either gaming, betting or taking part in a

lottery:

- 'gaming' means playing a game of chance for a prize
- 'betting' means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true
- a 'lottery' is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

2.2 The scope of the policy Statement is to cover all matters in respect of which the licensing authority has duties under the Gambling Act 2005. Licensing Authorities are required under the Act to:

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- Publish and Review a Statement of Licensing Policy
- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences in respect of Casino premises, Bingo Halls, Betting premises including Tracks, Adult Entertainment Centres and Family Entertainment Centres
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes which wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines
- Grant Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued
- Maintain registers of the permits and licences that are issued under these functions

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It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via Operator Licences.

3. The Licensing Objectives.

3.1 The licensing authority will regulate gambling in the public interest and when carrying out its functions and exercising its powers will aim to promote the

licensing objectives at all times. All applications will be dealt with on their individual merits in the application of the licensing objectives. The authority will not seek to use the Gambling Act to resolve matters which are controlled by other legislation. Nothing in this Statement of Gambling Licensing Policy will override the right of any person to make an application under the Gambling Act 2005 or to make a representation in accordance with the legislation and to have the application or representation considered on its merits, subject to the licensing objectives.

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3.2 The licensing objectives are:

- To prevent gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime;
- To ensure that gambling is conducted in a fair and open way; and
- To protect children and other vulnerable persons from being harmed or exploited by gambling.

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3.3 The licensing objectives are the only matters the Authority will consider in determining an application.

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4. **Responsible Authorities and Interested Parties.**

4.1 Where an application is made to the licensing authority for a Gambling Premises Licence, a responsible authority or interested party may make representations about the application to the Authority. Section 157 of the Act identifies the bodies that are to be treated as responsible authorities. They are:

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(a) a licensing authority in England and Wales in whose area the premises is wholly/partly situated;

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(b) the Gambling Commission;

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(c) the chief officer of police/chief constable for the area in which the premises is wholly or partially situated;

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(d) the fire and rescue authority for the same area;

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(e) the local planning authority;

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(f) an authority which has functions in relation to pollution to the environment or harm to human health;

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(g) anybody, designated in writing by the licensing authority as competent to advise about the protection of children from harm;

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(h) HM Revenue & Customs; and

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(i) any other person prescribed in regulations by the Secretary of State.

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In relation to a vessel, but no other premises, responsible authorities also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is used for licensable activities. This would include:

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(a) the Environment Agency;

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- (b) the British Waterways Board; and
(c) the Secretary of State. (Note: in practice, the Secretary of State for Transport who acts through the Maritime and Coastguard Agency.)

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4.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

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- the need for the body to be responsible for an area covering the whole of the licensing authority's area
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc

In carrying out its duty to protect children the Licensing Authority has determined that the responsible authority for the protection of children is Cardiff Council Children's Services.

4.3 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a Gambling Premises Licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person-

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- 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)"

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4.4 In exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party this Authority will not apply a rigid rule to its decision making and each case will be decided upon the evidence as to the likelihood that the party live sufficiently close to the premises as to be affected by the authorised activities. The matter will be decided upon its merits depending upon the evidence of:

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- the size of the premises
- the nature of the premises
- the potential impact of the premises on the area
- the type of facilities applied for
- the geographical location of the premises
- the nature of the area in which the premises are situated
- any other reasonable factor

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4.5 Interested parties would generally include trade associations and trade unions, and residents' and tenants' associations where these organisations are able to

demonstrate that they are representing members who live sufficiently close to the premises and who are likely to be affected by the activities being applied for.

- 4.6 Interested parties can be persons who are democratically elected such as Councillors and AM's. Other than these persons, this authority will require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation, is sufficient. If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application.

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5. Decision Making

- 5.1 This Licensing Authority will strive to make all decisions required in a manner consistent with the Gambling Act 2005, the Guidance issued by the Gambling Commission, relevant codes of practice and this Statement of Licensing Policy.

- 5.2 In processing applications the overriding principle adopted by the council will be that each application will be determined on the merits of the individual Gambling Premises Licence application, subject to the sources of authority mentioned in paragraph 5.1. The licensing objectives will be the governing factor in any decision taken and applicants will be expected to address issues of concern such as:

- the proximity of schools and vulnerable adult centres
- the nature and type of premises
- the nature and type of area
- any problems of organised crime, or incidence of violent disorder in the area
- the concentration of families with children in the area
- ensuring that premises are not advertised in a way which may make them particularly attractive to children
- any necessary segregation of areas within the premises
- supervision of entry and access to the premises
- any other reasonable matter for concern.

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- 5.3 Conditions on Gambling Premises Licences will relate only to gambling, as considered appropriate in the light of the principles to be applied under section 153 of the Gambling Act. In considering any necessary and proportionate conditions to be attached to licences the Authority will take into account factors which are:

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- relevant to the need to make the proposed building suitable as a gambling facility;

- relevant with consideration to any age restrictions applicable to the premises
- directly related to the premises and the type of licence applied for;
- relevant in respect of the nature of the area in which the premises are situated;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

Decisions on individual conditions will be made on a case by case basis, although there will be a number of control measures available and the authority will expect the licence applicant to suggest any necessary conditions to meet the licensing objectives. Examples of appropriate conditions which may be attached to the licence in the interests of meeting the licensing objectives where it is considered that they are both necessary and proportionate are:

- Proof of age schemes
- CCTV systems
- Door Supervisors
- Physical separation of areas
- Location of entry
- Notices and signage
- Specific opening hours
- The location of gaming machines
- Self exclusion policies
- Provision of leaflets and gambling addiction advice
- Provision of helpline numbers

This list is not mandatory or exhaustive, and is merely indicative of example measures.

There are conditions which the licensing authority cannot attach to Gambling Premises Licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated) and
- conditions in relation to stakes, fees, winning or prizes

It should be noted that, unlike the Licensing Act, the Gambling Act specifically does not include as a specific licensing objective the prevention of public nuisance. Any nuisance associated with gambling premises should therefore be tackled under other relevant laws.

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5.4 The 'need' or demand for gambling facilities at a licensed premises or where they should be located in general are not matters that the licensing authority will consider when discharging its decision making function.

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5.5 The authority will take no account of any representations which are irrelevant to the application being considered. The following examples of possible representations would not be likely to be relevant although the list is by no means exhaustive, and each case will be decided on the facts:

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- that there are already too many gambling premises in the locality (although it may be relevant if it points, as a result, to rising problems in crime, disorder, underage gambling or problem gambling);
- that the proposed premises are likely to be a fire risk;
- that the location of the premises is likely to lead to traffic congestion; or
- that the premises will cause crowds of people to congregate in one area, which will be noisy and a nuisance.

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Similarly the authority will not consider any representation it receives which a 'frivolous' or 'vexatious' representation. Although this will be a question of fact depending upon the case factors which will be taken into account in determining the matter will include:

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- who is making the representation, and whether there is a history of making representations that are not relevant;
- whether it raises a 'relevant' issue; or
- whether it raises issues specifically to do with the premises that are the subject of the application.

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5.6 In determining applications the Licensing Committee will delegate its functions to Licensing Sub Committee(s) and appropriate officers in the interests of speed, efficiency and cost effectiveness. The procedure and practices of the Sub-Committees will be clearly laid down and made available to applicants and those making representations.

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5.7 Applications for review will normally be accepted and processed without delay provided that the application is relevant to the licensing principles and that the grounds for review are not frivolous or vexatious, trivial or repetitive.

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5.8 In determining applications for permits of all types a general principle applied will be that given that the premises will particularly appeal to children and young persons, the applicant will in particular be expected to demonstrate their suitability in terms of the child protection issues.

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6. Enforcement and Premises Inspection.

6.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the

powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

6.2 In taking enforcement action of any kind the Authority will act in accordance with its published Enforcement Policy Statement and will endeavour to be:

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- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects

6.3 As per the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible and will adopt a risk-based inspection programme based on the licensing objectives to ensure that resources are targeted at problem premises. In determining the level of risk the authority will be concerned with:

- the nature and type of area in which the premises are situated
- evidence of crime or disorder at the premises
- the nature, size and type of premises
- the facilities for gambling being offered
- the length of time the premises has been operating
- the history of complaints received
- the level of concern expressed by responsible authorities and interested parties
- any other reasonable matter for concern.

6.4 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the **Gambling** Premises Licences and other permissions which it authorises in the public interest. 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 licensing authority but will be notified to the Gambling Commission. This authority also understands that the Gambling Commission will be responsible for compliance as regards unlicensed premises.

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7. **Information Exchange.**

7.1 Licensing authorities are required to include in their policy Statement the principles to be applied by the authority in exercising the functions under

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sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

7.2 The principle that this licensing authority applies is that it 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 licensing authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

7.3 The authority may from time to time exercise its' powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its' statutory objective of reducing crime in the area.

7.4 The authority would wish to make its decision making process as transparent as possible and all representations made to it will be shared with all parties to an application. Freedom of information legislation will be complied with.

8. Casino Premises.

8.1 Under the provisions of Section 166 of the Gambling Act 2005 an authority may resolve not to issue casino premises licences. The Authority has made no such resolution. The Licensing Committee will consider any petition signed by no less than 50 persons requesting that such a resolution should be made and make a recommendation on the proposal to the full Council for consideration and determination.

8.2 Should Cardiff be chosen as an area suitable for a new casino it is likely that there will be competition for the licence and the licensing authority will have to decide between the competing applications and grant any available licences to those applications which in their opinion will result in the greatest benefit to Cardiff. The Authority will first determine which applications would be suitable for granting a licence if there was no other impediment. Where there are more than one suitable applicant the licensing authority will determine which of the competing applicants would provide the greatest benefit to the Authority's area measured against the following criteria:

- the previous history of the applicant
- approval of the applicant by the Council's Executive
- the contribution to research into the prevention and treatment of problem gambling;
- the contribution to public education on the risks of gambling and how to gamble safely; and
- the contribution to the identification of and treatment of problem gamblers.
- the extent of the measures taken to prevent access by children

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- the extent of the measures taken to prevent the activity becoming a focus of crime and disorder
- the likely effectiveness of any measures to improve the infrastructure and economy of Cardiff
- the provision of facilities other than gambling to be provided
- the likely effectiveness of measures to increase employment in Cardiff
- the likely effectiveness of measures which would have a beneficial effect on the alleviation of social deprivation.

9. Gambling Permits.

- 9.1 In addition to the grant of gambling premises licences the authority also has responsibility for issuing a range of permits as detailed in section 2.1 of the Statement.
- 9.2 In respect of the issue of prize gaming permits the authority intends to restrict the grant or renewal of such permits to cafes and restaurants or hotels with restaurant facilities where seating facilities are provided for persons to take refreshment of food on the premises and the number of machines to be limited to one in each premises unless the premises is a staff canteen when two machines may be permitted.
- 9.3 The authority will deal with each application in respect of a Family Entertainment Centre entirely on its merits and will expect an applicant to be able to demonstrate that they are a fit and proper person and entirely suitable for a permit.

APPENDIX B

Gambling Licensing Policy Statement - List of Organisations Consulted Directly.

South Wales Fire Service
HM Commissioners of Customs and Excise
Gambling Commission
Magistrates Licensing Section
Cardiff City Centre Manager
Cardiff Community Safety Partnership
Roger Etchells, Chartered Surveyor
Morgan Cole, Solicitors
GamCare
Gordon House Association
British Amusement Catering Trades Association
Bingo Association of Great Britain
Casino Operators' Association
The British Casino Association
Association of British Bookmakers
British Greyhound Racing Board
Mecca Bingo Clubs
Ladbrokes Betting and Gaming Limited
William Hill plc
Business in Sport and Leisure
British Beer and Pub Association
Cardiff Council's Children's Services
Health and Safety Section Cardiff Council
Pollution Control Section Cardiff Council
Cardiff Planning Authority
Cardiff Council's Consumer Protection Section

APPENDIX C – COMMENTS RECEIVED ON THE STATEMENT OF GAMBLING LICENSING POLICY

APPENDIX C - Consultation Responses – Statement of Gambling Licensing Policy December 2006.

Number	Date	Name	Observation	Response	Actions
1.1	11/07/2006	Association of British Bookmakers	Request the insertion of the phrase “There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.”	Nothing in the draft policy referred to the need for door supervision. The authority was minded to leave such a requirement entirely to the perceived need by the responsible authorities. The authority is not in a position to judge the accuracy of the first sentence in the requested insertion and although the second sentence accurately describes the position it is not thought necessary to include this as a statement of the principles to be adopted.	Advice has been given in Section 5.3 to applicants advising them on consideration of appropriate and necessary conditions including the need for door supervision.
1.2			Request the insertion of the phrase “While the authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. This authority will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this authority may consider, when reviewing a licence, the ability of staff to monitor the use of such machines from the counter.”	The representation seems to be a standard one as there is no reference to control of numbers in the draft policy. The policy has not sought to deal with individual types of gambling premises individually relying on a statement of its general principles. The power to issue conditions is granted by section 181 of the Act and it is not thought necessary to elaborate on this.	No Change.

Number	Date	Name	Observation	Response	Actions
1.3			Request that the policy positively encourage re-sites of premises within the same area or locality in order enhance the quality of facilities provided for the benefit of the betting public.	Section 5.4 of the draft policy makes it clear that the need or demand for gaming facilities is not a matter the authority will have consideration to.	No Change
1.4			Request the insertion of the phrase "The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise."	It would be perfectly acceptable for multiple operators to give a point of contact but if this is not a requirement of the act or regulations it is not a matter the authority should express a view of as a licensing principle.	No Change
1.5			In relation to para 5.2 on page 7 it should be noted that many betting offices are located near schools or in residential areas but under 18's are not permitted on the premises. Equally in relation to vulnerable persons most bookmakers operate extremely effective self exclusion policies. We would therefore suggest that location should not be a factor when considering a betting office application. Also the external appearance of the premises should be left to planning and building regulations as this will not affect one of the licensing objectives. As betting shops do not permit under 18's in their premises segregation of areas within a betting office will not be relevant.	<p>The statement of principles is to apply to a large range of premises not just betting offices.</p> <p>Location will need to be considered with reference to the crime and disorder licensing objective.</p> <p>It is believed that the external appearance could be left to planning and building control.</p>	<p>Advice has been given in 5.3 on the possible use of self exclusion policies.</p> <p>References to the external appearance in 5.2 have been deleted.</p> <p>Age restriction policies have been included in 5.3 as a relevant consideration.</p>
2.1	17/07/2006	Roger Etchells, Chartered Surveyors	Would wish to state explicitly that applications will be treated on their merits having regard to the type of premises.	Agreed	Section 5.2 has been reworded to explicitly clarify the issue.

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2.2			Advocate that the references to the concentration of families with children and proximity of schools should be made specific only to premises which admit under 18's.	The point is accepted although it is believed that the reference in 5.2 is appropriate the distinction in age restricted premises should be made.	A bullet point has been added to 5.3 to make clear that the factors to be taken into account will include any age restrictions.
2.3			In para 5.2 it is said that the external appearance is a licensing issue. The layout of the entrance, signage etc maybe but surely the appearance is a planning matter. It is strongly recommended that that particular bullet point should be amended accordingly.	Agreed	References to the external appearance in 5.2 have been deleted.
2.4			It is recommended that the final bullet point of 5.2 be deleted as in presenting an application the applicant can not hope to address every possible reasonable matter unless he has prior notice	Clearly the applicant will have an understanding of their application and of the nature and type of premises that the authority does not have. The inclusion of a requirement to address relevant other matters is perfectly valid.	No Change.
2.5			In para 5.3 the policy indicates that the authority will not normally impose conditions in relation to matters other than gambling. It should be made clear that it should never impose conditions which are not related to gambling. The second sentence of para 5.3 should be deleted altogether.	Agreed	Second sentence of 5.3 deleted.
3.1	23/08/2006	GameCare	Suggestions for inclusion as conditions of licence or legislation.	The legislation makes clear that the Gambling Commission is responsible for setting mandatory and default licensing conditions.	No Change
4.1	17/08/2006	Gambling Commission	Advised of new address of Gambling Commission for inclusion in the details of responsible authorities section of the Statement.	Current details should be contained in the advice to applicants which is not a part of the formal Statement of Gambling Licensing Policy.	Amendments included in responsible authority contact details.
5.1	25/09/2006	Pollution Control,	In Part 5 I would like to see more of a	Unlike the licensing act the	No Change

Number	Date	Name	Observation	Response	Actions
		Cardiff Council	reference to statutory nuisance, although I note the end paragraph in 5.3. If you think of Vegas style casinos they have music outside and plenty of lights. Shouldn't we be asking them to consider the impacts of statutory nuisance, such as light and noise pollution.	gambling act does not have a public nuisance objective - so the amount of noise or illumination involved is not a relevant consideration under the gambling act	
5.2			In 5.2 "external appearance of the premises" – would that include issues such as excessive lighting? In 5.3 third and fifth bullets – is this where we would add in about reasonable noise levels form the premises?	The external appearance is a matter which may be controlled under planning legislation. Reasonable noise levels can not be set under the Gambling Act.	References to the external appearance in 5.2 have been deleted.
			I would recommend that the authorities existing policies in respect of Amusement with Prize Machines and Track Betting Licences be included in the Statement of Principles to be adopted by the Council.	Agreed.	Amendments incorporated in Section 9 of the draft statement.
5.3			Also in the contact details for OM environment you have an incorrect number it should be 1892.	Agreed.	Number amended.
6	28/09/2006	Rank Group Gaming Division	The draft policy appears to be in line with the DCMS Guidelines and does not cause specific issues. However the Gambling Commission is continuing to issue consultative documents and codes of guidance which may necessitate amendments or alterations to the policy at a later date.	Noted	No change required.
7.1	28/09/2006	British Casino Association.	The operation of Casinos has been highly regulated over the past 40 years and the new regime replicates the historical controls.	Noted	No change required.
7.2			The tight entry controls, including those on the verification of identity of all customers, prevent casinos creating any nuisance to the local community and is one of the reasons	Noted	No change required.

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			why door supervisors were deemed unnecessary by parliament and why gaming premises are already exempt from the provisions of the SIA.		
7.3			The existing statutory bar on persons under 18 entering such premises is already strictly enforced and therefore licence conditions will not be required to prevent access to machines.	Noted	No Change required