
From: Margaret Gore
Sent: 07/10/2015 09:29:02
To: Cheryl Lambert
Subject: FW: Consultation - Gambling Act 2005
Attachments: WBC GA2005 SOP EGM v1.pdf

Morning Cheryl

At its Planning & Highways Meeting of 5 October 2015 member made the following comment:

107. WEST BERKSHIRE DISTRICT COUNCIL CONSULTATION - GAMBLING ACT 2005

PROPOSED: Councillor Jo Day
SECONDED: Councillor Tony Stretton

RESOLVED: That Members support the renewal of the Gambling Act 2005.

Kind regards

Margaret

Margaret Gore / Corporate Services Officer

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West Berkshire District Council Consultation - Gambling Act 2005

The Council is currently consulting on the renewal of its Statement of Principles as required by the Gambling Act 2005. We have a statutory requirement to revise the statement every 3 years, to take effect from January 2016.

You are invited to comment upon the existing policy and offer comments as you feel appropriate for consideration in the review.

The policy document is attached with changes inserted under section 7 to cover the new mandatory requirements which apply to operators who are required to develop their own premises specific risk assessment by 6 April 2016. New paragraphs have also been inserted under section 13 which outline the Council's position in respect of the formation of a local area profile. The Council welcomes evidence to support these.

Further information regarding risk assessments and local area profiles is available at the Gambling Commissions website www.gamblingcommission.gov.uk

Comments on the revised draft Gambling Licensing Policy must be in writing – either by sending an email to licensing@westberks.gov.uk or by writing to the following address:

West Berkshire District Council
Council Offices
Market Street
Newbury, RG14 5LD

Please include your name and contact details with your comments.

It should be noted that the Gambling Commission Guidance advises that demand for gambling premises and morality issues are not considerations under this legislation. Therefore the authority may not be in a position to consider any comments of this nature.

Comments on the revised policy must be received by **28 October 2015**.

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Licensing Policy on Gambling

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West Berkshire Council Statement of Policy on Gambling

Section 1 - Definitions

The **Council** means West Berkshire District Council;

The **Licensing Authority** means the Council acting as defined by Section 2 of the Gambling Act 2005. For all official correspondence, the address of the Licensing Authority is, The Licensing Manager, Environmental Health & Licensing, Culture & Environmental Protection, Council Offices, Market Street, Newbury, Berkshire, RG14 5LD.

The **Act** means the Gambling Act 2005.

The **Licensing Committee** means the full committee or a Sub-Committee of not less than three members.

The term **etc.** is used to denote the whole range of consents relating to the Act, including premises licences, authorisations for the temporary use of premises, occasional use notices and five different sorts of permits for unlicensed family entertainment centres, prize gaming, gaming machines on alcohol-licensed premises and club gaming and club gaming machines, variations, transfers, and renewals.

GC means the Gambling Commission.

Child means an individual who is less than 16 years old. A **young person** means an individual who is not a child but who is less than 18 years old.

GC guidance means the latest guidance issued under Section 25 of the Gambling Act 2005 by the Gambling Commission.

Section 2 - Introduction

- 1 This Licensing Policy Statement addresses the requirements of section 1 of the Act. It sets out the Council's Licensing Policy and takes account of the GC guidance. This Licensing Policy Statement will apply to the area of West Berkshire District Council.
- 2 West Berkshire District Council is a Unitary Authority and is predominantly rural with the Council area making up over half of the geographical County of Berkshire, covering an area of 272 square miles. The population is relatively young when compared across the UK, although this is made up of a significant proportion of people aged between 30 – 50 rather than significant numbers of people in their 20's. The District is perceived to be in an area of some affluence having 5 main areas of conurbation spread evenly across the Council's area of jurisdiction. Newbury Racecourse is situated in the centre of the largest town in the District and the rural areas are world renowned for their involvement in the training and stabling of race horses.
- 3 The Policy relates to all those licensing activities identified as falling within the provisions of the Act, namely:-
 - a) bingo premises;
 - b) betting premises, including tracks;
 - c) adult gaming centres;
 - d) family entertainment centres;
 - e) authorisations for the temporary use of premises;
 - f) occasional use premises;
 - g) prize gaming;
 - h) gaming machines on alcohol-licensed premises;
 - i) club gaming;
 - j) club gaming machines.
 - k) Casinos
- 4 The scope of the Policy covers new premises licences and other forms of permits.
- 5 The Licensing Authority recognises that in determining individual cases, decisions must be consistent with both the provisions of the Act, the Section 25 Guidance and this Policy. In particular, this Policy does not override the right of any interested party to make representations on an application where that provision has been made in the

Act. In determining a licence application, the overriding principle adopted by the Council will be that each application will be determined on its merits.

- 6 The Licensing Authority recognises the obligations placed upon it by the Human Rights Act 1998 and in considering applications under the Gambling Act will have regard to:
- a) Article 1, Protocol 1 – peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest;
 - b) Article 6 – right to a fair hearing;
 - c) Article 8 – respect for private and family life. In particular removal of restriction of a licence may affect a person’s private life; and
 - d) Article 10 – right to freedom of expression.

Section 3 - Licensing Objectives

- 7 The Licensing Authority recognises that its duty under the Act is to carry out its functions with a view to promoting the three Licensing Objectives, and all decisions will be made solely based on these. They are :-
- a) ***preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;***
 - b) ***ensuring that gambling is conducted in a fair and open way; and***
 - c) ***protecting children and other vulnerable persons from being harmed or exploited by gambling.***
- 8 The Licensing Authority recognises that in exercising its function under part 8 of the Act (Premises Licensing and Provisional Statements) it will aim to permit the use of premises for gambling in so far as it thinks it is:
- a) *in accordance with any relevant code of practice under section 24;*
 - b) *in accordance with any relevant guidance issued by the GC under section 25;*
 - c) *reasonably consistent with the licensing objectives set out above; and*
 - d) *in accordance with this licensing policy statement.*

Section 4 – Demand for gaming premises

- 9 The Licensing Authority recognises that in deciding whether or not to grant a licence etc, unmet demand is not a criterion in considering an application for a premises

licence under the Act. Each application will be considered upon its merits without regard to demand.

- 10 The Licensing Authority will consider applications for premises licences for casinos.

Section 5 - Consultation and review

- 11 Before publishing this Policy Statement, or any subsequent revision, the Licensing Authority will consult with the following:-

- a) the Chief Officer of Police responsible for the West Berkshire area;
- b) one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
- c) 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 this Act.

- 12 The Council will review, and after consultation, re-publish its Licensing Policy at least once every three years. Whilst acknowledging this responsibility, the Council reserves the right to revise the Policy at more frequent intervals, should this be deemed appropriate or necessary.

- 13 **Local Area Profiles (LAP)**

Whilst not a requirement the authority may consider adopting a Local Area Profile in line with developing a more local focused statement policy which will be a relevant matter when determining applications or reviewing existing licences.

The nature and creation of such a profile involves a process of drawing together and presenting information about the area and in particular areas of concern within the locality. Information will be required from a number of bodies, e.g. public health, mental health, social housing providers, community groups and other partner organisations for the production of such a profile.

Section 6 - The Licensing Process

- 14 The Council recognises its licensing responsibilities under the Gambling Act 2005 and in particular will provide:

- a) appropriate levels of resources including personnel, systems (including computer systems), and support;
 - b) appropriate training for Elected Members, appropriate facilities at licensing hearings for applicants, the public and witnesses;
 - c) hearings at times convenient to applicants and witnesses, as far as reasonably practicable;
 - d) general guidance and assistance to licence applicants as far as reasonably practicable, however for specific advice the applicant may need to seek independent legal advice;
 - e) an appropriate system to receive related complaints and service requests;
 - f) Elected Members and Officers who have regard to appropriate Codes of Conduct and Declaration of Interests in dealing with licensing applications.
- 15 The powers of the Licensing Authority under the Act will be carried out via the Council's Licensing Committee, by a Sub-Committee or by one or more Officers acting under delegated authority. In the interests of speed, efficiency and cost-effectiveness for all parties involved in the licensing process, the Council has adopted the scheme of delegation shown at Annex A to process applications received under the Act. This form of delegation is without prejudice to referring an application to a Sub-Committee or the Licensing Committee if it is considered appropriate in particular cases.
- 16 The Licensing Authority will expect applicants to address, in their applications, the measures they propose to take to meet the Licensing Objectives and to submit any information with their application that may be prescribed by the Secretary of State and/or the Licensing Authority.
- 17 When making licensing decisions and imposing licensing conditions, the Licensing Authority will concentrate on matters within the control of the licence holder. Generally the Licensing Authority will be concerned only with the premises in question and its vicinity. The Licensing Authority will focus on the direct impact which the licensed premises, and its licensed activities, could have on persons living sufficiently close to the premises to be likely to be affected by the authorised activities and on persons having business interests that might be affected by the authorised activities.
- 18 In determining applications for licences, permits, etc the Licensing Authority will:

- a) consider only pertinent factors as set out in law and in approved guidance;
- b) act without favour when considering matters linked directly or indirectly to the Council, for instance when dealing with an application for one of its own properties;
- c) act in accordance with the principles of natural justice;
- d) impose conditions on a licence as prescribed in the Act by means of Regulations as either, Mandatory Conditions or Default Conditions, to be made by the Secretary of State or as may be appropriate in the particular circumstances of individual premises. Conditions will not duplicate other statutory requirements.

Section 7 - Risk Assessments

19. The Gambling Commission's Licence Conditions and Codes of Practice (LCCP)

prescribe the need for operators to consider local risks. Local risk assessments apply to all non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences.

20. Licensees are required to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in this policy statement.

21. Licensees are required to undertake a local risk assessment when applying for a new premises licence. Risk assessments must also be updated:

- a) When applying for a variation of a premises licence.
- b) To take account of significant changes in local circumstances, including those identified in a licensing authority's policy statement.
- c) When there are significant changes at a licensee's premises that may affect their mitigation of local risks.

22. The licensing authority has an expectation that all local risk assessments will take into account the local social profile of the area.

Section ~~7~~8 - The protection of children and other vulnerable persons from being harmed or exploited by gambling

~~19~~23. Responsible Authorities are set out in Annexe B. These authorities are required to be notified by applicants of their intention to apply for a licence etc, and are able to make representations against applications. Specifically in relation to protecting children and other vulnerable persons from harm, the Licensing Authority has discretion to determine the most appropriate body competent to advise the Authority about protection from harm.

~~20~~24. The Licensing Authority considers the Local Safeguarding Children Board to be the competent body to advise the Authority on matters relating to the above sub section.

~~21~~25. The Local Safeguarding Children Board is the statutory mechanism for agreeing how the relevant organisations in each local area will co-operate to safeguard and promote the welfare of young or vulnerable people.

~~22~~26. It is therefore highly appropriate that any activities taking place in the locality that have the potential to impact upon the well being of young or vulnerable people are brought to the Board's attention so that any necessary response or action can be considered.

~~23~~27. This is a wide remit but it is extremely helpful for the organisations represented on the Board which includes all the statutory agencies working with children and families to be aware at the earliest opportunity of applications for gambling licences/permits etc, as the location and hours open can have implications for young persons in that area.

Section ~~8~~9 - Interested parties

~~24~~28. Section 158 of the Act defines interested parties as persons who:

- a) live sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) have business interests that might be affected by the authorised activities; or
- c) represent persons who satisfy paragraph a) or b).

~~25~~29. In determining whether an interested party "lives sufficiently close to the premises" the Licensing Authority will consider factors such as:

- a) the size of the premises;
- b) the nature of the premises;
- c) the distance of the premises from the location of the person making the representation;
- d) the potential impact of the premises, such as number of customers, routes likely to be taken by those visiting the establishment; and
- e) the nature of the complainant; that is whether the interests of the complainant may be relevant to the distance from the premises, for example, a private resident, a residential school for children with truanting problems or a hostel for vulnerable adults.

2630. In determining whether “business interests might be affected” the Licensing Authority will consider factors such as:

- f) the size of the premises;
- g) the ‘catchment’ area of the premises;
- h) whether the person making the representation has business interests in the catchment area that might be affected.

2731. In determining who may “represent persons” who live in the area or have business

Interests, the Licensing Authority will consider the following categories:

- i) trade associations;
- j) trade unions;
- k) resident’s and tenant’s associations;
- l) MP’s, Ward Councillors, Town or Parish Councils and Town and Parish Councillors’.
- m) Any other person, on a case by case basis, who, in the opinion of the Licensing Authority satisfies the Authority, in writing, that they truly represent interested parties.

Section 9 - Licence Conditions

2832. The Licensing Authority will impose conditions that are either mandatory or default as prescribed in the Act or in Regulations prescribed by the Secretary of State, and may impose conditions which the Committee regard as necessary to meet the Licensing Objectives or are specific to the premises being considered.

2933. Any conditions attached to any particular licence will:

- a) always be tailored to the style and characteristics of the premises in question;

- b) only be applied when needed for the prevailing circumstances and;
- c) will only be applied when necessary to help achieve the Licensing Objectives.

3034. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public, for example, Health and Safety at Work and Fire Safety Legislation.

3135. Whenever reasonably practicable, the Licensing Authority will ensure that other legislation, most notably Fire Safety Legislation, does not omit controls on the understanding they will be addressed by licensing conditions.

Section 10 - Enforcement

3236. Where enforcement action is necessary, the Council will act in accordance with its published Enforcement Policy, which in turn is based on the principles of the Regulatory Compliance Code.

3337. The Licensing Authority will enforce, alone or in partnership, all breaches of the licence conditions under the Act where appropriate.

3438. 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 may contact first should any compliance queries or issues arise. Notwithstanding this the Authority reserves the right to act directly against individuals where the extent of the problem or offence is deemed appropriate.

Section 11 - Information Exchange

3539. The Licensing Authority will have regard to the requirements of the Freedom of Information Act concerning information it holds upon applicants, licences and permits etc. This information will be freely available as it will be a requirement for the Licensing Authority to maintain a public register of the premises licences it has issued. Such information will include details of applicants, licence holders, and licence conditions.

3640. Copies of applications and supporting documentation will be made available to Responsible Authorities under the Act

3741. In the case of representations made against an application for a licence or permit these will be made available to the applicant so that they can address any issues

raised in a hearing held to determine their application. The name and address of the person making the representation will normally be made available to the applicant but will be withheld upon request. In such cases, an objector must appreciate that the representation may receive lesser consideration.

DRAFT

ANNEX A: Delegation of Licensing Functions

Matter to be dealt with	Full Council	Sub Committee of Licensing Committee	Delegated to Officers
Three year licensing policy	Cannot be delegated further		
Policy not to permit casinos	Cannot be delegated further		
Fee setting	Generally prescribed by Secretary of State but may be devolved to Licensing Authorities in certain cases		
Application for Premises Licence		If a representation is made and not withdrawn	If no representation is made or one has been withdrawn
Application to vary Premises Licence		If a representation is made and not withdrawn	If no representation is made or one has been withdrawn
Application to transfer Premises Licence		If a representation is made and not withdrawn	If no representation is made or one has been withdrawn
Application for a provisional statement		If a representation is made and not withdrawn	If no representation is made or one has been withdrawn
Review of a premises licence		By Licensing Committee only	
Application for club gaming / club machine permits		If a representation is made and not withdrawn	If no representation is made or one has been withdrawn
Cancellation of club gaming / club machine permits			All cases
Applications for other permits			All cases
Cancellation of licensed premises gaming machine permits			All cases
Consideration of temporary use notice			All cases
Decision to give a counter notice to a temporary use notice		All cases	

Annex B

Responsible Authority	Point of Contact
The Licensing Authority	<p>The Licensing Team Manager, West Berkshire Council, Culture & Environmental Protection, Council Offices, Market Street, Newbury, Berkshire, RG14 5LD</p> <p>Licensing@westberks.gov.uk</p>
The Gambling Commission	Victoria Square House, Victoria Square, Birmingham B2 4BP
The Chief Officer of Police	<p>Licensing, Thames Valley Police, Headquarters (South), Kidlington, Oxfordshire OX5 2NX</p> <p>licensing@thamesvalley.pnn.police.uk</p>
The Fire Authority	<p>The Fire Safety Officer, Royal Berkshire Fire & Rescue Service, Hawthorn Road, Newbury, Berkshire, RG14 1LD</p> <p>NewburyFireSafety@rbfr.co.uk</p>
The Local Planning Authority Town and Country Planning Act 1990 (c.8)	Development Control Manager, West Berkshire District Council, Council Offices, Market Street, Newbury, Berkshire. RG14 5LD
The Environmental Health Authority	Principal Environmental Health Officer West Berkshire District Council, Council Offices, Market Street, Newbury, Berkshire. RG14 5LD
<u>Public Health and Wellbeing and</u> Local Safeguarding Children Board	<p><u>Debbie Richings, Children's Planning Officer Commissioning Manager,</u></p> <p>West Berkshire District Council, <u>Council Offices, Market Street, Newbury, Berkshire. RG14 5LD</u></p>
HM Revenue and Customs	<p><u>HM Revenue & Customs, Risk Section, Sapphire Plaza, Watlington Street, Reading, Berkshire RG1 4TA HMRC National Registration Unit, Portcullis House, 21 India St, Glasgo G2 4PZ</u></p> <p>NRUBetting&Gaming@HMRC.gsi.gov.uk</p>
The Secretary of State	Tourism Division, 3 rd Floor, 2-4 Cockspur Street, London. SW1Y 5DH