

Runnymede Borough Council

LICENSING COMMITTEE

28 September 2006 at 7.30 p.m.

Members of the Committee present: Councillors A.J. Davis (Chairman), Mrs P.I. Broadhead (Vice-Chairman), R.J. Edis, Mrs E. Gill, Ms R.E. Haylor, Mrs J. Norman, B.J. Relph and Mrs M. Roberts.

Members of the Committee absent: Councillors C. Knight and D. W. Parr

267. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor D.W. Parr.

268. MINUTES

The Minutes of the meeting of the Committee held on 22 June 2006 were confirmed and signed as a correct record.

269. GAMBLING ACT 2005 – DRAFT STATEMENT OF LICENSING POLICY  
(Ref: Minutes of Licensing Committee, June 2006, page 85, para. 101)

The Committee considered the contents of a draft statement of licensing policy made under the Gambling Act 2005 and a programme of statutory consultation to be carried out on the Policy.

The Gambling Act 2005 was due to come into force on 1 September 2007. It would repeal the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976, consolidating them into a single Act which introduced a unified regulator for gambling in Great Britain, called the Gambling Commission. The Act removed from licensing justices all responsibility for granting gaming and betting permissions. Gambling would henceforth be licensed either by the Commission or by Licensing Authorities. Runnymede was a Licensing Authority. The Council had to exercise its functions under the Act in accordance with Guidance published by the Gambling Commission in April 2006.

Under Part 18, section 349 of The Gambling Act 2005, each Licensing Authority was required to publish a Gambling Licensing Policy every three years which would be a Statement of Principles which it proposed to apply in carrying out its functions under the Act. Before each successive three year period, the Licensing Authority would need to consult the Chief Officer of the local Police authority and any other person(s) who it appeared represented the interests of persons carrying on gambling business in the area. It would then need to publish the Statement of Principles (or revised Statement) and keep it under review. Every Licensing Authority was required to produce a Gambling Licensing Policy by January 2007.

The three licensing objectives of the Gambling Act 2005 were to prevent gambling from being a source of crime or disorder, to ensure that gambling was conducted in a fair and open way and to protect children and other vulnerable persons from being harmed or exploited by gambling. These objectives needed to be borne in mind when drawing up the Gambling Licensing Policy.

There would be three types of licence. Operators licences, and personal licences which certain employees of gambling operators would require, would be the responsibility of the Gambling Commission. Premises licences would be issued by local licensing authorities.

At the moment local authorities had responsibility for the registration of small society lotteries below prescribed thresholds and the issue of Prize Gaming Permits. Under the Gambling Act 2005 local authorities would also be responsible for a range of other functions, other than the issue of premises licenses such as for betting shops, and including issuing permits for members clubs undertaking certain gaming activities, granting permits for premises with lower stake gaming machines (such as amusement arcades) and issuing gaming machine permits for premises.

It was estimated that under the new legislation Runnymede would need to license and/or issue permits to 62 premises, comprising 11 betting premises, and 51 premises with gaming machines. Shops purveying fast food and taxi cab offices would not be allowed to renew their gaming machine permits as the Government took the view that these kinds of premises were no longer suitable places for these machines. There was also one amusement arcade in the borough at the Thorpe Park theme park which would need a licence.

The Department for Culture, Media and Sport (DCMS), had now revised the timetable for implementation of the Gambling Act 2005. This was to allow licensing authorities more time to prepare and train staff and develop systems to carry out the new procedures. The DCMS had moved the 'appointed day' for the acceptance of advance applications for premises licences back by three months from 31 January 2007 to 30 April 2007. The closing date for advance applications from operators would also move back by three months, from 27 April 2007 to 31 July 2007. Licensing authorities would not necessarily process these applications by 31 August 2007 but existing operators who applied by 31 July would have the right to continue operating, regardless of whether their application had been determined or not. The life of certain existing premises licences would also be extended. For example, if an existing premises licence expired between 1 September 2006 and 31 August 2007, it would be automatically renewed until 31 August 2007, after which date the new Act would take effect. Premises licence holders would not need to apply for a renewal and the automatic renewal would not attract a fee.

The Committee agreed the timetable for producing the Policy and implementing the Act, taking into account the revised Guidance issued by the Gambling Commission. The draft Policy would be approved for consultation by the Committee at this meeting and the consultation on the Policy would then commence at the end of September and be completed by the middle of November. The Policy would then be submitted to the Licensing Committee on 23 November, the Corporate Management Committee on 30 November and the Council meeting on 14 December for approval. The Policy would come into force in January 2007 and the first appointed day would be 30 April 2007.

The Minister for Sport had stated that the Gambling Policy Statement should set out the high level principles that the local authority intended to apply in carrying out its functions under the Act. There was no need to enter into the detail of specific licence conditions. However, a local authority should focus on the areas where it had specific, local concerns.

The Committee considered a Statement of Principles based on a template drawn up by a working group of Officers from the Surrey Licensing Forum, which consisted of Officers from the Surrey enforcement agencies including Surrey Police, Surrey Fire & Rescue, Surrey County Council and all district councils in Surrey.

The Committee made a number of textual changes to the Statement to clarify its meaning, which are set out at Appendix 'A'. The Committee agreed that the Caravan Club should be added to the list of consultees on the statement. As there were currently no race tracks (i.e. arenas for horse or greyhound racing) within the borough, the Committee agreed that Officers should consider whether it was possible to abbreviate the section of the Statement on race tracks and if so, to amend that section as appropriate. The Committee agreed that consultees should be asked for their views on whether there should be casinos in the borough. The responses received on the subject of casinos would then be taken into account in forming the Committee's policy when it considered the outcome of the consultation at its next meeting.

The Committee agreed to delete nursing, residential care homes and sheltered accommodation from the list of premises located in close proximity to gambling premises which may give rise to concern (paragraph 2.2 of the Draft Statement). Much would depend upon the type of gambling that was proposed to be offered on the premises in question. The Council would, where appropriate, consider any location on a case by case basis. If any proposed location did pose a risk to the promotion of the licensing objectives, the applicant would be invited to show how they proposed to overcome such concerns. The Council would be receiving guidance from the Government on placing of machines in family entertainment centres (amusement arcades) in order to protect children and vulnerable persons. The Committee noted that there would be a Glossary of Terms for the Statement.

The Council would seek to provide the service on the basis of full cost recovery, as envisaged by the Government. A fee would be payable to the Council, aimed at recovering the costs of the licensing process and any associated monitoring and enforcement of the conditions. The Secretary of State would have powers to devolve the setting of fees to a prescribed list of local authorities. Where

authorities, such as Runnymede, had obtained an 'excellent' rating in their Comprehensive Performance Assessment (CPA) they would be given the additional flexibility of setting their own fees for premises licences. These would however, need to be justifiable and reasonable. Start up fees included training of Officers and Members and the costs of the consultation process. Officers were endeavouring to contain these costs within existing budgets. There were also cost implications in other departments involved in this work.

The Council was only allowed to break even on its gambling licensing, and could not make a profit or cross subsidise this function with other licensing activities. Premises licensed for the sale of alcohol and taxi licensing occupied a greater amount of time and resource within Runnymede than gambling licensing as there were not many gambling premises in the borough, when compared to other local authorities. The Council was able to recover reasonable costs arising from prosecutions.

The full financial implications to the Council of the introduction of the Act were not yet known. Without detailed guidance and codes of practice it was difficult to estimate the level of resources required to take on this function within the Licensing Team of Environmental Protection. Based on information currently available it was estimated that the additional work involved would be equivalent to around 50% of a full-time equivalent post. However, until further details of the fee structure for the licensing process were provided it was unclear whether this would provide adequate income to fully cover the costs.

**RESOLVED that –**

**the draft Gambling Act 2003, Statement of Licensing Policy 2007 – 2010 be approved for consultation subject to the comments set out in the preamble to this resolution.**

270. AUTHORISATION OF OFFICER

The Committee considered the authorisation of any Senior Licensing Officer employed by the Council for the purposes of the Licensing Act 2003.

The enforcement functions of the Licensing Authority in Runnymede were carried out by the Senior Licensing Officer. There were a number of enforcement provisions in the Licensing Act 2003 which entitled an authorised Officer, or authorised person as the case may be, to exercise certain powers on production of evidence of his authority, e.g. specific powers of entry.

Entry to premises was likely to be only rarely refused but if the authorised Officer was to properly carry out his duties, then that Officer did require to be authorised and to be able to produce evidence of their authority if required to do so. The normal evidence of authority in Runnymede was a Warrant Card issued by the Director of Technical Services. By Section 10(1)(b) Licensing Act 2003 the Licensing Committee could arrange for the discharge of any functions exercisable by it by an Officer of the Licensing Authority.

The Committee accordingly

**RESOLVED that -**

**any Senior Licensing Officer employed by the Council from time to time be authorised for the purposes of the Licensing Act 2003, and the Director of Technical Services be authorised to issue evidence of such authority accordingly.**

271. LICENSING CODE OF CONDUCT FOR MEMBERS – PROPOSED AMENDMENT

The Committee considered an amendment to the Licensing Code of Conduct for Members as set out at pages 312 to 316 of the Constitution of the Council.

Paragraph 10 of the Code currently read as follows:- "no Member of the Council can represent one of the interested parties or applicant. This will give rise to a personal and prejudicial interest under the Council's Code of Conduct for Members".

Paragraph 10 had been drafted with a view to the particular care needed to avoid prejudicial interests in licensing matters and bearing in mind an Adjudication Panel case where a Councillor representing an applicant in a professional capacity was held to have a prejudicial interest. However, paragraph 5.32 of the DCMS Guidance issued under Section 182 of the Licensing Act 2003 stated that interested parties to a licensing application might request a representative to make representation on their behalf. Amongst the examples it gave of individuals who may be asked to act as a representative in this way were local ward Councillors. The Guidance did acknowledge that any Councillor who was also a Member of the Licensing Committee should disqualify him or herself from any involvement in the decision making process.

Therefore, the current position was that the present local Code prohibited Members from addressing the Licensing Sub-Committee on an application, except in order to represent the general interests of their ward, rather than speaking for a party to the application. The DCMS Guidance, on the other hand, allowed Councillors to represent interested parties if they were not Members of the Licensing Committee.

After consideration of the DCMS guidance, the correctness of the current approach had been raised by Officers with the Government's Standards Board who advised that it was possible that not all situations in which a Councillor represented applicants would give rise to a personal or prejudicial interest under the Code. The Board considered that this still might be the case if Members were to represent the applicant in a professional capacity. The Board also drew attention to the common law risk of pre-determination or bias if a Councillor who spoke for a party was involved in the decision making.

Taking into account both the DCMS document and the advice from the Standards Board the Committee agreed that paragraph 10 be amended to read as set out in the resolution below.

**RESOLVED that –**

**Paragraph 10 of the Licensing Code of Conduct for Members be amended to read as follows:**

**"A Member of the Council who is not a Member of the Committee or Sub-Committee determining the application may represent one of the interested parties or applicant provided they do so strictly in their representative capacity as a Member of the Council. They may not do so in a professional capacity (for example as solicitor or consultant), as a personal friend, or in any other circumstances which will give rise to a personal or prejudicial interest under the Council's Code of Conduct for Members. If a Member has represented a party he or she may take no part in the decision making process and must leave the room for any such discussions."**

272. LICENSING SUB-COMMITTEE – DECISION NOTICE

The Committee received and adopted one Decision Notice issued following a meeting of the Licensing Sub-Committee on 19 June 2006.

**RESOLVED that –**

**the Decision Notice attached at Appendix 'B' be received and adopted.**

Chairman

(The meeting ended at 8.35 p.m.)