

	Item no: 5
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SUBJECT:	GAMBLING ACT 2005 – DCMS CONSULTATION ON THE PROCESS FOR DETERMINING APPLICATIONS FOR CASINO PREMISES
DECISION-MAKER:	LICENSING COMMITTEE
DATE OF DECISION:	19 TH APRIL 2007
REPORT VERSION No:	1

FORWARD PLAN No: N/A

KEY DECISION? N/A

STATEMENT OF CONFIDENTIALITY

NONE

WARDS/COMMUNITIES AFFECTED:

NONE

SUMMARY

On 30th January 2007, the Casino Advisory Panel (CAP) recommended that Southampton be granted the ability to issue a licence for a large casino pursuant to the provisions of the Gambling Act 2005. On 28th March 2007 Parliament deferred acceptance of CAP’s proposals and a decision is awaited from the Government on how the matter will now proceed.

Prior to the decision to defer the Department of Culture, Media and Sport (DCMS) issued a consultation paper on the draft regulations in relation to the process to be adopted for competing applications for casino premises. Additionally, the DCMS is consulting on the Code of Practice that local authorities will need to have regard to in determining applications for casino premises licences. No applications for licences can be legally entertained before 1st September 2007.

The Licensing Committee, as the designated body of the Council as Licensing Authority under the Act is invited to comment on the consultation paper and submit any consultation response to the DCMS.

RECOMMENDATION:

- (i) To consider the DCMS consultation paper on the Gambling Act 2005 dated February 2007 and provide any comments or observations by way of a consultation response.

REASONS FOR REPORT RECOMMENDATIONS

1. Whilst there is no duty to respond to the consultation document as one of the 17 authorities nationwide who have been currently recommended the right to issue a casino licence and therefore directly affected by the proposals, it is considered important that the Council’s views are submitted on any draft regulations and Codes of Practice that will directly affect its areas of responsibility and discharge of its powers.

BACKGROUND

1. As referred to in the Summary above

CONSULTATION

2. No consultation has taken place as the Council is itself a consultee. However, specific reference to the DCMS document has been made on the Council's dedicated licensing webpage on the Large Casino together with a link to the document itself to enable anyone to respond direct to the DCMS by 2nd May 2007

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. Not relevant

DETAIL

4. Attached at Appendix 1 is the full consultation document. In all, ten specific questions are asked of consultees and these are summarised in Section 3 of the consultation paper on the last page.
5. Each question has been looked at individually by officers and views are detailed as below.

Q1 *Do you agree with the approach set out in paragraphs 2.1-2.4? Do you agree with the broad principles underpinning the government's approach set out in Paragraph 2.4?*

The broad principles and approach appear to be reasonable. A two stage competition is sensible in theory but it is wondered whether in practice this will work as anticipated.

Concerns also remain over the cost of the selection process that will be borne by the Licensing Authority. The applications will be detailed and require professional examination from a variety of disciplines. That cost will have to be borne by the Licensing Authority. Under the appropriate regulations (SI 2007/479) each applicant will pay a fee, which is subject to a separate report on this agenda, together with an annual fee thereafter. It is highly likely the competition process will cost substantially more than any fees received.

The devolution to each Licensing Authority of the ability to develop and adopt its own selection criteria, over and above the minimum statutory requirements, is welcomed although there should be some consistency of approach between the 17 authorities.

Q2 *Do you agree that the invitation to apply should be published as a minimum in a casino trade publication and the Official Journal of the European Union?*

Whilst it is inconceivable that potential casino operators are unaware of the provisions of the Gambling Act regarding casino licences naturally there has to be a formal advertisement or tender notice inviting applications. The minimum timescales and journals proposed are reasonable. Additionally, the minimum detail to be contained in any

notice seems reasonable.

- Q3 *Do you agree that the invitation must be publicised at least three months before the final date on which applications for the casino premises licence may be submitted?*

Yes

- Q4 *Do you agree that it is important to separate the Stage 1 and Stage 2 considerations in the way proposed?*

Although the merit in staging the process is recognised realistically unless the Licensing Authority attaches stringent, but reasonable, additional criteria in practice it is doubted whether any experienced applicant would fail Stage 1 as the statutory criteria is both well known and straightforward to comply with.

The two stage process will place a significant burden on the Licensing Authority to consider every application in minute detail. The Licensing Authority should be given a specific ability to reject any application at any early stage that clearly does not meet local requirements such as location or deliverability rather than minimal statutory requirements. Whilst “local benefits” should not influence objective consideration of each application at Stage 1 it is suggested some broad outline of the whole proposal will be required at this initial consideration stage.

As above, the cost of the two stage process to the Licensing Authority is a concern.

- Q5 *Do you agree with the information that the government proposes to require licensing authorities to include in their invitation to apply?*

No, it is believed that more detail is required to be submitted at the first stage as above.

- Q6 *Do you have any comments relating to the requirement for licensing authorities to ensure that the competitions for the casino premises licences are fair and open?*

It is imperative that the competition is conducted in an open and transparent way and that all interested parties have an opportunity to participate in the process. Whilst local flexibility of approach is welcomed it may give comfort to interested third parties if minimum consultation requirements are detailed in the Code of Practice, albeit that the City Council would no doubt seek a wide range of consultation opportunities and requirements in respect of applications submitted to it in any event.

- Q7 *Do you agree that tender exercises provide a useful model for the Stage 2 consideration? Do you agree with the requirements that the government proposes to place on licensing authorities through the Code of Practice?*

The tender exercise is realistically the only approach that can be taken. Again, the local flexibility and minimum prescription proposed to be

granted is welcomed

- Q8 *Do you agree with the matters that licensing authorities should be required to consider when determining their Stage 2 criteria?*

Yes. The Council has already committed to reviewing its Statement of Licensing Principles to reflect the need to include detailed criteria in relation to what it expects from applicants for a large casino licence. There will be a full consultation process to accompany this and this has been publicised on the Council's dedicated webpage www.southampton.gov.uk/licensing/largecasino

- Q9 *Do you agree that licensing authorities should be encouraged to engage in active consultation with local people when developing their Stage 2 criteria?*

Yes, although in addition to local people, businesses, local partnerships, faith groups, landowners, residents organisations and like bodies are equally important consultees.

- Q10 *Do you agree that licensing authorities should be reminded in the Code of Practice that Part 8 of the Gambling Act will apply at both stages of consideration of applications for the new casino premises licences?*

No, this is wholly unnecessary. Licensing Authorities are well versed in adopting lawful decision making practices. The process is clearly stated in the legislation and does not need restating.

6.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

7. None.

Revenue

8. None in relation to this consultation response.

Property

9. None.

Other

10. None.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

11. The Council is designated as a Licensing Authority within the meaning of the Gambling Act 2005, although there is no statutory requirement to respond to this consultation paper, the Council will have to abide by any primary and secondary legislation and have regard to any Codes of Practice published by the Government in any selection process for the granting of casino premises licences.

Other Legal Implications:

12. None.

POLICY FRAMEWORK IMPLICATIONS

13. None.

SUPPORTING DOCUMENTATION

Appendices

1.	DCMS – Gambling Act 2005 Consultation on Casino Premises Licences dated February 2007
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Documents In Members' Rooms

1.	None.
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Background Documents

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	Government's Statement of National Policy dated 16 th December 2004	
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Background documents available for inspection at: Office of the Solicitor to the Council, Civic Centre, Southampton SO14 7LY

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