



North Devon Council

Report Date: 10 September 2024

Topic: Review of Gambling Act Statement of Licensing Principles

Report by: Lead Officer Commercial Regulation

1. INTRODUCTION

- 1.1 North Devon Council is under a legal obligation to review its Gambling Statement of Licensing Principles on a three yearly basis.
- 1.2 A consultation exercise was undertaken in respect of a draft proposed revision to the Council's Gambling Statement of Licensing Principles, which contains amendments to the existing statement. Moreover, the consultation also sought to gain feedback in respect of a proposal to introduce a No-Casino Resolution.
- 1.3 This consultation has closed and feedback has now been gained, which should be considered by Members prior to a recommendation being made for the adoption of an amended Statement of Principles and any No-Casino Resolution.

2. RECOMMENDATIONS

- 2.1 It is **RECOMMENDED** that the Licensing and Community Safety Committee:
 - 2.1.1 Consider the feedback gained from the consultation exercise, which is found within **Appendix A**.
 - 2.1.2 Consider whether to recommend to Strategy and Resources that a No-Casino Resolution be adopted by the Council.
 - 2.1.3 Recommend to Strategy and Resources Committee that they in turn recommend to Full Council, the approval of the proposed revised Gambling Statement of Licensing Principles at **Appendix B** (a tracked document highlighting the amendments made to the current policy is contained in **Appendix C**).

3. REASONS FOR RECOMMENDATIONS

- 3.1 In order to discharge its statutory duties under the Gambling Act 2005, North Devon Council is required to produce a Gambling Statement of Principles and review it at least every three years.
- 3.2 The route proposed through the Council's Committee process will enable the Council to satisfy the legislation requiring the Statement of Principles to be published every three years and prior to the 3 January 2025.

4. REPORT

Introduction

- 4.1 The Gambling Act 2005 ("the Act") received royal assent in April 2005 and consolidated regulation of casinos, bingo, gaming machines, lotteries, betting and remote gambling in one Act.
- 4.2 The Act established a non-departmental public body, The Gambling Commission, which has responsibility for advising both central and local government on issues relating to gambling.
- 4.3 North Devon Council has responsibilities under the Act to issue premises licences, permits and notices in respect of premises where it is proposed that gambling should take place. Additionally the Council is responsible for the registration of Small Society Lotteries.
- 4.4 Section 349 of the Act requires all licensing authorities to prepare and publish a Statement of the Principles that they intend to apply in exercising their functions under the Act. This licensing Statement of Principles will last for a maximum of three years, but it can be reviewed and revised by the authority at any time during that three year period.
- 4.5 The revised draft Gambling Statement of Licensing Principles (**Appendix B**) has been written pursuant to the provisions of the Gambling Act 2005 and the Guidance issued under Section 25 of the Act by the Gambling Commission.
- 4.6 The revised Statement of Principles focuses on the on-going responsibilities of licensed premises to proactively uphold the licensing objectives. The proposed changes for which consultation was undertaken included:

- Insertion of hyperlinks to legislation, and codes of practice – e.g. Social Responsibility Code; Code of Practice for Machines and Pubs, Code of Practice on Equal Chance Gaming.
- Insertion of hyperlinks to categories of machines; the inspection templates used by the Council etc.
- Update to population estimates, demographic information; numbers of gambling premises and permits in the ‘Geographical Area’ Section.
- Addition of new consultees on proposed policy revision.
- Link to the Council’s new Corporate Enforcement Policy.
- New section on ‘Gambling Prevalence and Social Responsibility’ which outlines gambling related harm; the necessity for policies and procedures and marketing communications to promote/be socially responsible.
- Amendment to the general points on gaming machines to cite that machines are to be made available in accordance with relevant Codes of Practice; to recognise concerns about unlawful siting of machines; to outline enforcement actions available to the Council.
- New section on gaming in alcohol licensed premises to provide detail in respect of exempt gaming, and outline relevant limits, for example for low turn-over bingo; detail pertaining the requirements for Category C machines, their use by children and associated supervision; and need for compliance with Codes of Practice. Provision of new links for further information on poker and race nights.
- Improvement to section on three or more machines in alcohol licensed premises to better outline the basis under which applications are considered and the factors that the Licensing Authority will consider relevant, for example comments from responsible authorities; gross turnover of the gaming machines when compared to the premises turnover; and confidence in premises management.
- Clarification that in some instances where applicants are proposing to use premises as an Unlicensed Family Entertainment Centre that proof of right to occupy may not yet be available.

Consultation

4.7 Consultation on the proposed revisions to the Council’s Gambling Statement of Licensing Principles was undertaken for an eight week period between 7 May 2024 and 2 July 2024. This period provided an opportunity for all stakeholders, interested parties and the general public to make comments on the content of the draft revision and also in respect of whether a No-Casino Resolution should be adopted by the Council.

- 4.8 13 responses to the consultation were gained, all of whom were made by individuals. These responses are found within **Appendix A**.
- 4.9 In terms of whether these individuals believe that the Council should introduce a No-Casino Resolution, the overwhelming majority (82%) agree that a resolution should be made. **Appendix A** details the full comments made by these individuals. Factors being cited which should in their opinion lead the Council to proceed in making such a resolution include: casinos not seen as socially responsible operations; the lack of appropriateness to the area; the addictive nature of gambling; potential damage to individuals and others, a perception that this will not assist the area; and links to increase in crime in areas surrounding a casino.
- 4.10 The remaining 18% of respondents did not support a resolution being adopted, and they cited factors such as: casinos provide a form of adult entertainment that creates an alternative choice and if managed and run correctly can be much more than solely gambling. There was a view that each application should be viewed on merit and, if and when permitted, attendance should be a matter of individual choice.
- 4.11 In terms of the other questions, which included whether there were any comments on the proposed new sections on 'Gambling Prevalence and Social Responsibility' and 'Gaming in Alcohol Licensed Premises' there was general support for the proposals and no suggestions were made which are believed by officers to generate any further need for amendment to the proposed draft revision.
- 4.12 It is worth noting that there were some comments in the consultation such as:

The number of gambling establishments should be capped at a low number.

Slot machines should be banned. They are addictive and harmful to society.

Can we ban all gambling advertising as well?

These areas are unable to be regulated by the Council. They are not within the powers available under the Gambling Act 2005.

No Casino Resolution

- 4.13 Under section 166 of the Act a licensing authority may resolve not to issue casino premises licences. This Council has no casinos, and has not passed a No-Casino Resolution. The Statement of Principles currently cites that the Council is aware that it has the power to create a resolution and should Full Council decide in the future to pass such a resolution, it will update the Statement of Principles with details of that resolution.
- 4.14 The decision to pass such a resolution may only be taken by the authority as a whole and cannot be delegated to Licensing and Community Safety Committee. Where a resolution is passed it must be published by the authority in its three year Statement of Gambling Principles. It is also possible for any person or organisation to challenge a no casinos resolution if adopted by judicial review.
- 4.15 The Gambling Commission's Guidance cites that if passed a resolution "must apply to casino premises generally, so that the authority cannot limit its effect to geographic areas or categories of casinos. The resolution must specify the date it comes into effect. The authority may revoke the resolution by passing a counter-resolution (again the whole authority must pass that resolution). The resolution will lapse after three years so, should the licensing authority wish to keep the policy in place, they should pass a resolution every three years."
- 4.16 In passing such a resolution the authority may take into account any relevant principles or matters, not just the licensing objectives. In the Gambling Commission's Guidance to Local Authorities it notes that "licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met, and such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers)." Thus in passing a resolution it would seem that a wide range of opinion may be considered.
- 4.17 Current casino licences originate from two legislative regimes. The Gaming Act 1968 restricted prescribed numbers of casinos to "permitted areas" based on population density and seaside resorts. The Gambling Act 2005 provided for a new concept of casino, with a small number of

two types of licence created, known as [Large and Small 2005 Act Casinos](#). Section 175 of the 2005 Act states the national permitted numbers of new casinos, this includes no more than one regional casino, eight large and eight small casinos.

- 4.18 A No-Casino Resolution will only affect new casinos. It will not have any effect on casino premises that were originally licensed under the Gaming Act 1968.
- 4.19 The 2005 Act casinos were intended to be destination venues, with a wider range of activities to attract tourism and investment into areas in need of regeneration. When the 2005 Act was passed, licensees under the 1968 Act could apply to convert those permissions into premises licences under the 2005 Act. 1968 Act casinos are limited to 20 gaming machines only, regardless of size, unless they restrict themselves to lower stakes machines only. The cap is higher for 2005 Act casinos – 80 for Small and 150 for Large. These limits apply where any machines offered are Category B. Nearly all machines in casinos are Category B1, which has a maximum stake of £5 and is restricted to casinos only.
- 4.20 The 2005 Act casinos are also subject to minimum overall and non-gaming space requirements which were introduced alongside a ratio of machines to tables aimed at ensuring a balanced offer of different products. The new space requirements were also expected to encourage customers to have breaks in play. Betting was permitted in all 2005 Act casinos, and bingo was also permitted in Large ones. The 2005 Act licences were allocated by a Casino Advisory Panel following bids from local authorities.
- 4.21 A regional casino, which could have 1000+ machines with unlimited stakes and prizes, was provided for in the Act but the secondary legislation never passed. It was intended that the 2005 Act licences would be taken up and, subject to evaluation, more created, and perhaps that the 1968 Act casinos would be phased out or move over to the 2005 Act system. This has not happened so far and 137 casino licences are still of the 1968 Act type. These include a variety of venues in practice, including ‘high-end’ casinos which cater for high net worth (mainly international) clients and have a business model based primarily on live gaming tables. When the 2005 Act was passed, the then Government planned to review the changes in 2014, but only two of the new casino licences were active at that stage. The above White Paper cites that there are now seven active 2005 Act casinos from which to draw conclusions, with another one having opened and then closed again.

- 4.22 The House of Lords Select Committee report recommended in 2020 that casinos should be regulated under the same system regardless of when their licence was created. The above White Paper details that the size of Britain's land-based casino sector has remained relatively flat in recent years, in contrast to an expanding online market. The number of active licensed premises increased from 148 (2015) to 156 (2020), but the impact of COVID-19 resulted in a number of permanent closures (active licensed premises were 144 in 2022). In 2021/22 (the most recent full year), online casino gross gambling yield was more than five times that of land-based casinos.
- 4.23 By an Order in 2008 the Secretary of State provided which authorities would be permitted to issue the limited number of casino licences, North Devon Council was not one of these and applicants are prohibited from applying for a new casino licence to the Council.
- 4.24 Whilst the Secretary of State can increase the number of Casino Licences available by way of Order then, so long as this Authority did not bid for such additional licences and was not prescribed by an Order as an authority which could grant such licences, applicants would remain prohibited from making Casino applications to the Council unless there was an amendment to the Gambling Act itself. Consequently there is currently no legal possibility of a licensed casino in North Devon. It is however possible that this position could change in the future and there are other Councils with No Casino Resolutions in place for this reason. None of this of course prevents the Council making a new No Casino Resolution in the future if thought necessary.

5 FINANCIAL AND HUMAN RESOURCE IMPLICATIONS

- 5.1 There are no financial or human resource implications to the Council associated with this report, other than those which have arisen through the required consultation and reporting process.

6 CONSTITUTIONAL CONTEXT

- 6.1 Article of Part 3 Annexe 1 paragraph:4b.
6.2 Referred or delegated power?: delegated.

7 EQUALITIES ASSESSMENT

- 7.1 A documented equality impact assessment will be undertaken prior to Strategy and Resources considering the recommendation of this committee.

8 ENVIRONMENTAL ASSESSMENT

- 8.1 An environmental assessment has been undertaken and revealed a neutral impact.

9 STATEMENT OF CONFIDENTIALITY

- 9.1 This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

10 STATEMENT OF INTERNAL ADVICE

- 10.1 The author (below) confirms that advice has been taken from all appropriate officers.

11 BACKGROUND PAPERS

- Gambling Act 2005.
- Gambling Act 2005 (Licensing Authority Policy Statement (England and Wales) Regulations 2006.
- Gambling Commission's Guidance to Local Authorities (11 April 2023 update).

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