

LICENSING COMMITTEE (LICENSING ACT 2003)

Agenda Item 24

Brighton & Hove City Council

Subject:	Gambling Licensing Authority Review		
Date of Meeting:	14 March 2013		
Report of:	Head of Planning and Public Protection		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report sets out recent gambling licensing issues over the past year for Brighton & Hove City Council.
- Licensing Authority Functions
 - Extending the range of regulations covered by Primary Authority - Age-restricted sales of gambling
 - Co-regulation and intelligence sharing between Licensing Authority, Gambling Commission and Police
 - Betting Shops – premises licence trends
 - Local trends
- 1.2. Members are apprised of local and national issues.

2. RECOMMENDATIONS:

- 2.1 That members note this report.
- 2.2 That officers should continue to monitor trends of applications and illegal activity to inform future policy.
- 2.3 That officers report to BRDO (Better Regulation Delivery Office) that proposed changes to test purchasing and regulation are unnecessary and inappropriate.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 Licensing Authority Functions

- 3.1.1 The functions of licensing authorities may be divided roughly into five: publication of Gambling Policy, regulation of premises, registration of small society lotteries, maintenance of registers and compliance.
- 3.1.2 Brighton & Hove currently issues premises licences for: 4 casinos, 4 bingo halls, 33 Adult Gaming Centres, 5 Family Entertainment Centres, 2 betting tracks, 58

betting shops and 243 gaming machines (amusements with prizes machines in betting shops and alcohol licensed premises such as pubs, clubs and casinos).

3.1.3 When Brighton & Hove took responsibility for Gambling in 2007, there were 4 casinos, 8 bingo halls, 49 Adult Gaming Centres, 8 Family Entertainment Centres, 2 betting tracks, 71 betting shops and 222 gaming machines (amusements with prizes machines in betting shops and alcohol licensed premises such as pubs, clubs and casinos).

3.2 Extending the range of regulations covered by Primary Authority - Age-restricted sales of gambling

3.2.1 The Enterprise and Regulatory Reform (ERR) Bill would implement the Primary Authority provisions for age-restricted sales of gambling. Royal assent is expected later in 2013. The primary authority partnership arrangements allow for businesses operating across Council boundaries to partner single local authorities for trading standards, licensing and environmental health advice. The purpose is to ensure consistent assured advice. Enforcing authorities must have regard to primary authority advice and inspection plans. The BRDO resolve disputes. Current scope is food hygiene, trading standards, health & safety but the ERR Bill proposes expansion. Primary Authority applies to some areas of regulation including age-restricted sales legislation of tobacco products and fireworks. It is proposed to expand scope to private sector housing standards, sunbed tanning, Welsh carrier bag regulation and age restricted sales of gambling.

3.2.2 Businesses will be able to access consistent advice on age-verification procedures. They will also have the option of developing an inspection plan to coordinate test purchasing and deliver comprehensive performance feedback. Primary Authority does not restrict local authorities from responding to complaints and the Police operate entirely outside of the scheme.

3.2.3 The BRDO has published The Code of Practice for Age Restricted Products, following collaboration with business and regulators in support of the Age Restricted Products and Services Framework.

3.2.4 The Code, which is non-statutory, is applicable to all local regulatory activities undertaken in England and Wales. It covers all products and services for which statutory age restrictions are in place, and all relevant compliance and enforcement activities, whether in relation to premises or online supply.

3.2.5 The Code contains sections on Test Purchasing, guidance to businesses and the welfare of young people amongst others.

3.2.6 The advice from the Gambling Commission regarding test purchasing is to encourage operators to conduct their own test purchasing and share the data with the Commission and Licensing Authorities.

3.2.7 Locally no test purchase operations have been undertaken. There have been no recent complaints or concerns about underage gambling, for instance under 18s using cat B & C machines in pubs or Adult Gaming Centres (AGCs). Enforcement should be proportionate and informed by local intelligence.

3.3 Betting Shops

- 3.3.1 The Gambling Act 2005 established a dual tier system of regulation with local authorities granting betting and other premises licences once an operator had obtained an operating licence from the Gambling Commission. Local authorities are responsible for deciding whether or not a betting premises licence should be granted to established operators (this decision is separately made from the planning process).
- 3.3.2 Under the previous gambling regime, betting shops were regulated by the local magistrates court and a betting operator had to prove a demand for betting in a location before a new premises was granted. This 'demand test' no longer applies and reflects the principles of the Gambling Act as a permissive piece of legislation, where local authorities should aim to permit, enabling more market liberalisation.
- 3.3.3 A betting premises licence application is advertised by a notice on the premises and within a local newspaper, with a consultation process lasting 28 days. If no valid objections or representations are received within this period the application is deemed granted at the end of the 28 days.
- 3.3.4 Representations cannot be made on moral or competition grounds, but local residents and businesses can make representations based on the licensing objectives (crime/disorder, fairness to customers and protecting children and vulnerable persons). Guidance issued by the Gambling Commission gives examples of possible representations that would not likely be relevant, e.g. already too many gambling premises (unless linked to crime and disorder), fire safety and traffic congestion.
- 3.3.5 Three recent applications were submitted in December 2012. No objections were received and hence the licences were granted in January 2013:
- **Paddy Power**, 9 George Street, Hove BN3 3YA (currently a bar but the intention is to turn it into a betting shop)
 - **Coral**, 103 George Street, Hove (previously a bank)
 - **Coral**, 56 Western Rd, Brighton
- 3.3.6 Across the City there has been an increase of 9 betting shops in the last year, taking the total to 58. This is still less than the 71 which were licensed by the magistrates before the local authority took over responsibility in 2007. Proliferation alone is not a grounds for refusal. Licensing decisions must be grounded in one of the three objectives: criminal incursion, consumer protection and protection of vulnerable. Suitable use of buildings and land is a planning matter.

3.4 Co-regulation and Intelligence Sharing between Licensing Authority, Gambling Commission and Police

- 3.4.1 The Licensing Team work closely with both the Gambling Commission and the Police, carrying out joint inspections of gambling premises as required. This includes joint investigations into illegal gambling, for example in the last year we

have investigated allegations of illegal gaming (i.e. charging for gaming without the relevant permit) in Members Clubs and residential premises. Evidence of such gaming was identified in one particular Club who were given advice and a warning notice of the limits on stakes and prizes. This Club continues to be monitored as part of a joint operation with the Gambling Commission. We continue to receive intelligence of illegal gaming and liaise with the Gambling Commission and the Police.

3.5 Casinos

3.5.1 There are four current casino licences in Brighton & Hove, three of which are currently operating, Mint Casino in Preston St, Grosvenor Seafront Casino in Grand Junction Road and Rendezvous Casino in the Marina. What was the Grosvenor 4th Avenue Hove Casino licence is current but they are not operating, until such times as the economy picks up and they find a viable alternative venue within the City.

3.5.2 Under the 1968 Gambling Act there were permitted areas for casinos and a licence holder could apply for a casino if they could show a market/need for a casino. Under the Gambling Act 2005, local authorities who were permitted areas could apply for permission to issue casino licences. If they were unsuccessful then there was a freeze on the number of premises they had up till that date when the Act came in. This was the case with Brighton and Hove and as such the number is frozen at four. The Council decided not to make a “no casino” resolution but made arrangements for a new style small or large casino to be permitted in the city if an operator applied.

3.5.3 Nationally, a number of local authorities were given permission to issue new casinos under the Gambling Act 2005. However, with the exception of Newham, all of them have plans on hold due to the economic climate and lack of demand. Newham has the only new casino (large 27/04/13) in the country, opened in the new Westfield shopping centre.

3.6 **Adult Gaming Centres (AGC)** - slot machines, amusement with prizes including cat B machines. Last year an AGC licence was revoked for non-payment of fees. The business owners who operated throughout Sussex have been prosecuted and found guilty by the HMRC for non-payment of duty on gaming machines. They have been sentenced and their assets have been seized for being proceeds of crime.

3.7 Exempt gaming in Clubs and Pubs

Exempt gaming is equal chance gaming generally permissible in any club or alcohol licensed premises. Such gaming should be ancillary to the purposes of the premises. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State (e.g. £5 per person with a maximum prize of £100).

Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

3.8 Automatic entitlement to two machines in Clubs and Pubs

The Act provides an automatic entitlement to alcohol licence holders to make available two gaming machines (of category C or D) for use in alcohol-licensed premises.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1 Finance and legal services.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 The Licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime.

Finance Officer Consulted: Jeff Coates

Date: 07/02/2013

Legal Implications:

5.2 Legal implications within the body of this report.
Local authorities are licensing authorities for gambling premises licensing, permits (alcohol-licensed gaming machines, FECs, prize gaming and Clubs) and small society lotteries.

Lawyer Consulted: Rebecca Sidell

Date: 19.02.13

Equalities Implications:

5.3 There are no direct equalities implications. A key objective of gambling regulation is to protect children and the vulnerable from being harmed or exploited. Society lotteries are conducted for charitable purposes, cultural activities and non-commercial purposes.

Sustainability Implications:

5.4 There are no direct sustainability implications.

Crime & Disorder Implications:

5.5 There are no direct crime implications. Preventing gambling from being a source of crime or disorder, being associated with crime and disorder or being used to support crime is one of the three licensing objectives. The Council has a duty to have regard to the need to prevent crime and disorder in the city in exercising this and other duties (Crime & Disorder Act 1998 s17).

Risk and Opportunity Management Implications:

5.6 None.

Public Health Implications:

5.7 None. Public health is not a gambling licensing objective.

Corporate / Citywide Implications:

5.8 There are substantial gaming and betting businesses and charitable activities regulated by the Council.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

6.1 The duties of the licensing authority are mandatory.

7. REASONS FOR REPORT RECOMMENDATIONS

7.1 To inform members.

SUPPORTING DOCUMENTATION

Appendices: None

Documents in Members' Rooms: None

Background Documents: None