

Feedback from the Gambling Policy consultation.

Cllr Coleman's comment 1

On page 12 ref casinos: Why was the proposal for a casino unsuccessful? If we had one, would it bring in extra revenue to the Council? If so, could we try again?

Officers comment

We don't know why it was unsuccessful as we wouldn't get that feedback. The number of casinos is restricted and currently at the limit. Until such time that the number is increased by Government, we wouldn't be able to apply again.

Cllr Coleman's comment 2

On page 18 under risk ratings, please could you explain what a higher risk rating means in practice? Also, do we routinely inspect premises? If so, how often?

Officers comment

For enforcement and compliance visits for all our premises (Licensing Act and Gambling Act) we have a 'risk based inspection programme'. We answer a number of questions based on our visit and the multiple choice answers give a score. The overall score will generate a date when the next visit is due.

If a premises visited does not comply with anything at the visit, they will stay on the list to be visited again.

If a premises has new management or we have received complaints, this would also put them on the list to be visited.

The visits would normally be part of our premises checking but as you can appreciate last year, there was a drop in visits due to lockdown etc. We hope to get back on top of this very shortly and with some admin support joining the Sevenoaks Officers soon, this will help to free up our time for visits.

Cllr Coleman's comment 3

On page 19, Do we have any more recent figures on problem gambling as I am interested to see the impact of the lockdowns on gambling habits?

Officers comment

Information on this comes from the Gambling commission website. Further information would come from them and any documents they may publish.

Cllr Coleman's comment 4

On page 21 in the second last line of the third from bottom paragraph, I would like to suggest we change the words 'may wish to consider' to something stronger eg 'Should consider the provision of information leaflets'.

Officers comment

We will feed this back as part of the consultation process and propose this is changed.

Cllr Coleman's comment 5

On page 33, again I would prefer stronger wording at the bottom of the third paragraph. The change would be from ' may cover issues' to ' should cover issues'.

Officers comment

We will refer this to Legal to see if it will have any adverse impact on the Licensing decision makers.

Legal response

I would suggest that there would be good reason for keeping the wording as “may” in this list.

The Policy has been worded to make it clear that we “expect” applicants to offer measures to meet the licensing objectives. There is a clear and significant burden on the applicant to meet that obligation.

You will also appreciate that a number of these examples are drawn from the “Ordinary” Code of Practice. In itself, applicants must have regard to that.

Together those two aspects should be quite effective.

I would suggest that if we were to include such wording then we should add further explanation that Operators may adopt alternative approaches to those mentioned if they have taken account of our policy and that an alternative approach is reasonable in their particular circumstances or would be similarly effective. However, as it has been drafted as an indicative tool for applicants and some of the bullet points such as CCTV are rather short, this would pose a difficulty in conducting a detailed assessment.

Cllr Coleman's comment 6

On page 34, I am not sure what self-exclusion schemes mean but assume it relates to a person voluntarily asking to be excluded? Can we also include exclusion schemes on the part of the license holder if he/she is aware that someone has a gambling problem [in the same way that a publican can exclude a drunk / an alcoholic]?

Officers comment

We will refer this to Legal to see if this is something that can be imposed on licence holders. However self-exclusion is on the part of the problem gambler. Anything else would be the licence holder banning them from the shop.

Legal response

As background, I should note that in an alcohol licensing premises conditions are not usually imposed to prohibit licence holders from serving those who have inappropriate habits – rather there is just the criminal prohibition on serving those who are already intoxicated. All else is usually at the discretion of the landlord.

There is no specific provision for this in Guidance and it would not usually be appropriate to impose blanket additional conditions. I would agree with the comments of the Senior Licensing Officer.

However, the list of measures is not exhaustive and should not be considered such. The concern you have raised does clearly relate to the protection of other vulnerable persons

and appropriate measures may be considered to deal with that aspect, particularly if there are specific concerns relating to that premises.

Cllr Pender comment 1

It would be useful to get some guidance on the difference between "disorder" and "nuisance".

The fact that we can't object to a gambling establishment on grounds of nuisance (or that the demand would be excessively high changing the character of an area) is interesting, but we can (it seems) object on the grounds of the need to prevent "crime or disorder". Crime is well defined but what is meant by disorder, and how it differs from nuisance, is less clear.

Are we to take it that disorder might not cover things like likely noise or excessive traffic in an area, but it might cover things like a tendency for fights to break out, or an establishment becoming associated with prostitution (even if done in a way where strict criminality was hard to prove)?

Would it be possible to get some additional clarity on this legal distinction?

Officers comment

Passed to Legal for some guidance.

Legal response

This can be difficult as there is no strict definition on the limits of what "disorderly" means. However, some matters are more likely to fit into the definition than others. Some legal scholars have suggested that "disorderly" would mean that the behaviour offends against values generally recognised by society being of a character likely to cause annoyance to others who are present, though not reaching the level of a breach of the peace (which would be criminal).

For the definition of Public Nuisance in a licensing context, I could probably do no better than to refer Cllr Pender to the [Guidance issued under Section 182 of the Licensing Act 2003](#) (page 9):

At paragraph 2.16 the Guidance suggests that:

It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

I would say that it is quite possible for the two definitions to overlap a little and so I certainly appreciate Cllr Pender's concern in this matter.

Cllr Pender comment 2

May I ask what the current licensing regime is, with respect to gambling establishments?

Officers comment

Sevenoaks currently has 6 betting shops. Two in Sevenoaks town, one in Edenbridge and three in Swanley.

The Gambling Act also covers Gaming Notifications and permits that premises may have for gaming machines and Lottery licences that are usually held by schools or community premises that sell raffle tickets in advance of the prize draw date.

Licences, Permits and Gaming Notifications would be checked while Officers are carrying out Premises inspection visits. Additional visits would be made if there are new managers in place or should complaints or intelligence received.

Cllr Pender comment 2.1

I was more wondering what policy this draft document would be replacing?

The most obvious issue currently is the numerous references to CCTV as an implied positive.

CCTV should not be a requirement of our licensing conditions, ever. It has been removed as a requirement for an alcohol license, it is not a requirement for taxi drivers, and it is inconsistent and wrong to suggest a CCTV mandate should apply here.

In fact, it would be best if an explicit statement was made that CCTV will never be required as a licensing condition, and that an offer to put in CCTV will not assist in the passing of an application, as it is important that pragmatic business people who want their licence to go through do not end up feeling that offering CCTV is the path of least resistance.

So I would like this aspect to be looked at with some urgency.

Officers comment

It is a minor refresh proposed to replace the current Gambling Policy.

Thank you for your comments on CCTV. We will feed this back as part of the consultation process.

Cllr Fleming's comment

Thank you, I am happy.

Cllr Layland's comment

Jessica, I can confirm that I have read the Draft Statement of Licensing Policy for The Gambling Act 2005 and do not wish to make any further comments.

Cllr Edwards-Winser's comment

See Cllr Edwards-Winser, John Tracked changes document.

Jane Blade, Compliance Manager, Gambling Commission comments

Although we are not making formal comments, we have made some notes and suggested amendments on the draft policy to assist you. There is no need to record this as a consultation response – our response is solely to correct any errors and to make suggestions about other matters you may wish to include.

We have attached an outline document that was used three years ago to assist local authorities. There may be things in this document that would help you.

See Jane Blade Compliance Manager Tracked changes document.

See Jane Blade Compliance Manager, Statement of Principles Outline.