

CHESHIRE EAST COUNCIL

COUNCIL

Date of meeting: 24th February 2009
Report of: Borough Solicitor

Title: Gambling Act 2005 – Statement of Principles

1.0 Purpose of Report

- 1.1 Licensing Authorities must approve and publish a Statement of Principles in order to carry out functions relating to the licensing of gambling premises and the issue of gambling permits under the Gambling Act 2005. Where practicable the Council is required to produce its Statement of Principles by 1st April 2009.
- 1.2 The purpose of the report is to request Council to approve the Statement of Principles which is recommended to it by the Licensing Committee following the completion of a statutory consultation exercise.

2.0 Decision Required

- 2.1 Council is requested to approve the Statement of Principles under the Gambling Act 2005 to take effect on 1st April 2009.

3.0 Financial Implications for Transition Costs

- 3.1 The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 require a notice of intention of publication to be placed in a local newspaper circulating in the area; there will be a cost to the authority associated with the publication of this notice.

4.0 Financial Implications 2009/10 and beyond

- 4.1 The Local Government (Structural Changes)(Transitional Arrangements)(No 2) Regulations 2008 provide that the preparation of a statement of principles by the shadow Council will be taken as satisfying the requirements of the Gambling Act 2005 as regards the three year period commencing on 31st January 2010. For this reason the statement is not required to be reviewed again until January 2013.

5.0 Legal Implications

- 5.1 Section 349 of the Gambling Act 2005 requires licensing authorities to prepare and publish a statement of principles that it proposes to apply in exercising its functions under the Act. The drafting of the policy statement must take into

account the requirements of The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006.

- 5.2 The Local Government (Structural Changes) (Transitional Arrangements) (No 2) Regulations 2008 provide that, where it is practicable to do so, a statement of principles under the Gambling Act 2005 shall be produced by 1 April 2009.

6.0 Risk Assessment

- 6.1 There would be a risk of legal challenge if the drafting of the Statement of Principles did not take into account the requirements of the legislation and guidance or if consultation responses received were not taken into consideration prior to approval.

7.0 Background and Options

- 7.1 As set out above, the Gambling Act 2005 requires licensing authorities to prepare and publish a statement of principles that it proposes to apply in exercising its functions under the Act. Cheshire East must have its own policy document in place in order to perform its role as the licensing authority for applications to licence premises for gambling.
- 7.2 At its meeting on 17th December 2008 Cabinet resolved to approve the draft policy in order that it may go forward for statutory consultation.
- 7.3 The Act requires the Council, as licensing authority, to consult the following on the statement of principles:
- The chief officer of police
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

Copies of the policy were forwarded to trade organisations, Parish and Town Councils together with residents groups and local Pub Watch representatives. A copy of the policy has also been available on the Council's website throughout the consultation period

- 7.4 At its meeting on 13th February 2009 the Licensing Committee considered the representations received and resolved to recommend to Council the Statement of Principles in the form attached as Appendix 1.

8.0 Overview of Day One, Year One and Term One Issues

- 8.1 The requirement to have a Statement of Licensing Policy in place is, where practicable, a Day One requirement.

9.0 Reasons for Recommendation

- 9.1 The Council is required to produce and publish, every three years a statement of the policy which it proposes to apply when exercising its functions under the Licensing Act 2003; where practicable this is required to be done by 1 April 2009. Council is requested to approve the Statement so that it may take effect on 1 April 2009.

For further information:

Officer: Mrs K Khan

Tel No: (01625) 504264

Email: k.khan@macclesfield.gov.uk

Background Documents:

Statement of Licensing Principles of Macclesfield Borough Council

Statement of Licensing Principles of Congleton Borough Council

Statement of Licensing Principles of Crewe & Nantwich Borough Council

Documents are available for inspection at:

Macclesfield Borough Council – Legal and Democratic Services, Town Hall, Macclesfield

Congleton Borough Council – Community Safety Dept, Westfields, Middlewich Road, Sandbach

Crewe & Nantwich Borough Council – Licensing Section, Municipal Buildings, Earle Street, Crewe