

CHESHIRE EAST COUNCIL

LICENSING COMMITTEE

Date of Meeting: 16th July 2012
Report of: Head of Community Services
Subject/Title: Review of Statement of Licensing Principles (Gambling Act 2005)

1.0 Report Summary

- 1.1 The Gambling Act 2005 requires local authorities to prepare and publish a statement of the principles that they propose to apply when exercising their functions under the Act during the three year period to which the statement applies.
- 1.2 The Council is required to review its existing statement of principles and publish the revised version by no later than 31st January 2013. In preparing a revised statement the Council must undertake a consultation exercise with stakeholders. The purpose of this report is to recommend to the Cabinet Member that approval is provided for the statement of principles in its draft form so that the consultation exercise may take place.

2.0 Decision Requested

- 2.1 Licensing Committee is requested to recommend to the Cabinet Member for Safer & Stronger Communities the following resolution:

That the draft statement of principles at Appendix 1 to this report be approved for the purpose of the statutory consultation exercise required by the Gambling Act 2005.

3.0 Reasons for Recommendations

- 3.1 The Council's existing statement of licensing principles under the Gambling Act 2005 took effect on 1st April 2009 (i.e. Vesting Day). Whilst statements must usually be revised and published in respect of every period of three years, by virtue of the Local Government (Structural Changes) (Transitional Arrangements) (No 2) Regulations 2008 the statement of principles approved in 2009 satisfied the requirements of the Gambling Act 2005 as regards the three year period commencing on 31st January 2010. For this reason the Council's statement must be reviewed and republished by 31st January 2013.
- 3.2 The statement of principles under the Gambling Act 2005 forms part of the Council's Policy Framework. Therefore, in accordance with the Budget and Policy Framework Procedure Rules, the responsibility for drawing up the initial proposals rests with the Executive. For this reason, the Licensing Committee is

requested to recommend the draft statement to the Cabinet Member for Safer & Stronger Communities so that the required statutory consultation process may commence.

4.0 Wards Affected

4.1 All

5.0 Local Ward Members

5.1 All

6.0 Policy Implications including - Carbon reduction - Health

6.1 The decision within 2.0 seeks approval for a draft policy so that consultation with relevant stakeholders may commence.

7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

7.1 There will be 'one-off' printing and postage costs associated with the consultation exercise; these costs are estimated to be in the region of £85 for printing and £70 for postage (if sent by second class post). Once a final version of the statement is approved, following consideration of any consultation responses received, there will be advertising costs associated with the notice of intended publication; these costs are estimated to be in the region of £1,500 plus VAT.

7.2 Whilst it is acknowledged that this expenditure is necessary, it is noted that early projections indicate that the Service area may be in a net overspend position at year end; the forecasts are being reviewed and will be reflected in First Quarter Review report, as necessary.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 Section 349 of the Gambling Act 2005 ('the 2005 Act') requires a licensing authority to prepare and publish a statement of the principles that it proposes to apply in exercising its functions under the 2005 Act during the three year period to which the policy applies. Whilst statements must usually be revised and published in respect of every period of three years, by virtue of the Local Government (Structural Changes) (Transitional Arrangements) (No 2) Regulations 2008 the statement of principles approved in 2009 was satisfied the requirements of the Gambling Act 2005 as regards the three year period commencing on 31st January 2010. For this reason the Council's statement must be reviewed and republished by no later than 31st January 2013.

8.2 The statement of principles forms part of the Council's Policy Framework. As such, the final decision to approve a statement of principles or a revision of the statement rests with full Council. In addition, in developing a revised statement

of principles, the authority must comply with its Budget and Policy Framework Procedure Rules (as set out within the Constitution).

- 8.3 Sub-section 349(3) of the 2005 Act prescribes that in preparing a revision of a statement a licensing authority is required to consult:
- (a) the chief officer of police for the authority's area;
 - (b) 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
 - (c) 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 2005 Act.
- 8.4 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 ('the 2006 Regulations'). In addition, the Gambling Commission's Guidance to Licensing Authorities ('the Guidance') prescribes that in determining its policy, the licensing authority must have regard to the Guidance and give appropriate weight to the views of those it has consulted.
- 8.5 The Guidance suggests that licensing authorities may wish to consider the following when developing a consultation strategy:
- consultation with a wide range of organisations including faith groups, voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers, medical practices or primary care trusts, and advocacy organisations (such as the Citizen's Advice Bureau and trade unions);
 - consultation with other tiers of local government (where they exist);
 - consultation with businesses that are, or will be, holders of a premises licence;
 - consultation with the organisations named as responsible authorities in the Act;
 - using a variety of consultation methods including meetings with gambling businesses in the local authority area and open forums for the public.

The Guidance also suggests that the written consultation should follow best practice as set out by the Department for Business Enterprise and Regulatory Reform allowing twelve weeks for responses to the consultation. The Guidance further suggests that consultation documents could be provided on the licensing authority's website.

- 8.6 Regulation 7 of the 2006 Regulations prescribes that before a revised statement comes into effect the authority must advertise the publication of the statement by way of a notice published on the authority's website and in one or more of the following places: (i) a local newspaper circulating in the area covered by the statement; (ii) a local newsletter, circular or similar document circulating in the area covered by the statement; (iii) a public notice board in or near the principal office of the authority; (iv) a public notice board on the premises of public libraries in the area covered by the statement.

- 8.7 Consideration has been given to the application of the 'public sector equality duty' (as per section 149 Equality Act 2010) to the decision requested within paragraph 2.0 above. It is suggested that the decision requested would have a neutral impact in terms of its impact on those individuals with 'protected characteristics.'

9.0 Risk Management

- 9.1 It is suggested that (a) compliance with the provisions of section 349 of the 2005 Act and the 2006 Regulations; (b) having regard to the provisions of the Guidance; (c) compliance with the Budget & Police Framework Procedure Rules; and (d) giving appropriate weight and consideration to any consultation responses received will mitigate the risk of a successful challenge of the final statement of principles.

10.0 Background and Options

- 10.1 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. The current statement of principles was approved in 2009 and was based on the policies then in force in the areas of the three predecessor district Councils and took into account the requirements of the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 in terms of its form and content.
- 10.2 The draft statement, a copy of which is attached as Appendix 1, incorporates some amendments (shown marked in red within Appendix 1), but in essence remains substantially the same as the original statement. The Licensing Section have not received any comments about the drafting of the current statement from stakeholders in the period since it came into force, i.e. 1st April 2009.
- 10.3 Should the Cabinet Member approve the draft statement of principles following a recommendation from the Committee, it is proposed that statutory consultation with stakeholders will commence. The full list of proposed consultees is set out within the draft statement; however consultees will include the police, the fire authority and representative groups of licence holders, businesses, and Town and Parish councils.
- 10.4 As set out within the legal implications, the statement of principles forms part of the Council's Policy Framework and therefore must be developed in accordance with the Budget & Policy Framework Procedure Rules. It is suggested that, taking into account the requirement for a revised statement to be in force by 31st January 2013 (and the requirement that a notice of intention to publish must be advertised no later than four weeks before this date), the following timetable is proposed:

	DATE
Licensing Committee	16 th July 2012
Meeting of Cabinet Member for Safer & Stronger Communities	23 rd July 2012
Consultation commences (subject to call-in)	31 st July 2012
12 week consultation period ends	23 rd October 2012
Licensing Committee (to consider consultation responses and make recommendation to Cabinet)	5 th November 2012
Cabinet (to consider recommendation from Licensing Committee and make recommendation to Council)	12 th November 2012
Council (to consider recommendation from Cabinet)	13 th December 2012

10.5 In accordance with the Budget & Policy Framework Procedure Rules, it is proposed that the Chairman of the Sustainable Communities Scrutiny Committee will be asked to confirm whether the Committee wishes to be presented with a report on the draft statement during the consultation period identified above.

11.0 Access to Information

APPENDIX 1 – Draft Statement of Principles (with proposed revisions)

APPENDIX 2 – EIA Screening Form

The background papers relating to this report can be inspected by contacting the report writer:

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