

Cheltenham Borough Council

Cabinet – 19 June 2012

Gambling Act 2005 – Review of Licensing Policy Statement of Principles

Accountable member	Cabinet Member Housing and Safety - Councillor Peter Jeffries
Accountable officer	Director of Wellbeing and Culture – Sonia Phillips
Accountable scrutiny committee	Overview and Scrutiny Committee
Ward(s) affected	All
Key Decision	No
Executive summary	<p>Under section 349 of the Gambling Act 2005 the Council must, before each successive period of three years, prepare a statement of the principles that they propose to apply in exercising their functions under the Gambling Act 2005 during that period and publish the statement.</p> <p>The Council's current policy statement was adopted by Full Council in December 2009. To comply with the statutory requirements, the current policy statement must be reviewed and adopted by December 2012.</p>
Recommendations	<p>It is recommended that Cabinet: -</p> <ol style="list-style-type: none">1. note the contents of the report and revised draft Statement of Principles and RESOLVE to approve the attached revised draft of the three year Statement of Principles for the purpose of formal consultation with all relevant parties; and2. subject to there being no substantive amendments being made following consultation, that the draft Statement of Principles be recommended to full Council for approval and adoption.
Financial implications	<p>There are no financial implications arising from this report.</p> <p>Contact officer: Sarah Didcote, sarah.didcote@cheltenham.gov.uk, 01242 26 4125</p>

Legal implications	<p>The licensing authority must before each successive period of 3 years prepare a statement of principles that it proposes to apply in exercising its functions under the Gambling Act 2005 during that period, and must publish the statement.</p> <p>The form of the statement and the procedures to be followed for its preparation, consultation and publication must be in accordance with the Gambling Act 2005 and subordinate legislation.</p> <p>Contact officer: Sarah Farooqi, sarah.farooqi@teWKesbury.gov.uk, 01684 272693</p>
HR implications (including learning and organisational development)	<p>No direct HR implications arising from this report.</p> <p>Contact officer: Julie McCarthy, julie.mccarthy@cheltenham.gov.uk, 01242 26 4355</p>
Key risks	<p>As outlined in Appendix 1</p>
Corporate and community plan Implications	<p>Communities feel safe and are safe</p> <p>Our residents enjoy a strong sense of community and are involved in identifying and resolving local issues</p>

1. Background

- 1.1 Under section 349 of the Gambling Act 2005 ("2005 Act") a licensing authority shall, before each successive period of three years, prepare a statement of the principles that they propose to apply in exercising their functions under the 2005 Act during that period and publish the statement.
- 1.2 The Council's current policy statement was adopted by Full Council in December 2009. To comply with the statutory requirements, the current policy statement must be reviewed and adopted by December 2012.
- 1.3 The current policy statement has been reviewed by officers and a draft policy statement is attached at **Appendix 2**.
- 1.4 The amendments to the current policy statement have been minimal as a result of the fact that legislation, insofar as it relates to the scope of the policy, has largely remained unchanged since the adoption of the current policy statement. The amendments are highlighted in yellow in the draft policy statement (shaded grey in printed document).

2. Consultation

- 2.1 The Council is required under section 349 of the Gambling Act 2005 to review and republish its policy statement every three years. When reviewing its policy statement, the Council is required to consult with:-
 - the chief officer of police for the authority's area,
 - 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 this Act.
- 2.2 The Council must ensure that it complies with the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006. These regulations govern the form statements must take, the procedure to be followed in relation to the preparation, review or revision of statements and the publication of statements.
- 2.3 These regulations require that a statement is published by being made available for a period of at least 4 weeks before the date on which it will come into effect:-
 - on the Authority's website, and
 - for public inspection in one or more public libraries or other premises in the Borough such as the Council Offices.
- 2.4 The Council must also advertise the publication of the reviewed Statement of Principles by publishing a notice on the Authority's website and in one or more of the following places:-
 - a local newspaper circulating in the area covered by the statement,
 - a local newsletter, circular, or similar document circulating in the area covered by the statement,
 - a public notice board in or near the principal office of the authority,
 - a public notice board on the premises of public libraries in the area covered by the statement.

2.5 Furthermore, the Council will carry out the consultation in accordance with the Government's Code of Practice on Consultation which recommends that consultations should last at least 12 weeks.

2.6 A list of consultees is listed on page 25 of the draft policy statement.

3. Statutory Guidance

3.1 The Gambling Commission has issued guidance to local authorities under section 25 of the 2005 Act. The Council is required to have regard to this guidance when discharging its duties under the legislation. The current version of the guidance is May 2009.

3.2 Attached at **Appendix 3** is part 6 of the guidance entitled "Licensing authority Statement of Policy" for the information of the committee.

4. Adoption

4.1 Delegations permitted under the 2005 Act prescribe that the Licensing Authority Policy Statement under section 349 of the Gambling Act 2005 are to be the shared responsibility of the full council and the executive.

5. Reasons for recommendations

5.1 To comply with the Council's statutory duty under section 349 of the 2005 Act.

6. Alternative options considered

6.1 The Council can decide not to review its current policy but it will be failing in its statutory duty in doing so.

Report author	Contact officer: Louis Krog, louis.krog@cheltenham.gov.uk, 01242 77 5200
Appendices	<ol style="list-style-type: none">1. Risk Assessment2. Draft Licensing Policy Statement of Principles3. Part 6 - Guidance to Licensing Authorities 3rd Edition (May 2009)
Background information	<ol style="list-style-type: none">1. Cheltenham Borough Council Gambling Policy Statement of Principles (adopted 14/12/2009)2. Gambling Act 20053. Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 20064. Gambling Commission Guidance to Licensing Authorities 3rd Edition (May 2009)

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
1	The Council can decide not to review its current policy but it will be failing in its statutory duty in doing so. This could open the Council to legal challenge.	Licensing & Business Support Team Leader	29/05/12	3	6	18	Adopt Policy	Adopt policy within statutory time limits.	Dec 2012	Licensing & Business Support Team Leader	

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close