

Cheltenham Borough Council
Council – 15 October 2012
Gambling Act 2005 – Policy Statement of Principles

Accountable member	Cabinet Member Housing and Safety - Councillor Peter Jeffries
Accountable officer	Director of Wellbeing & Culture – Sonia Phillips
Ward(s) affected	Overview and Scrutiny Committee
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 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>Council is recommended to;</p> <ol style="list-style-type: none"> 1. Note the consultee comments received; and 2. Approve the draft policy statement for 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 Council is required to publish a policy statement every three years. The policy statement together with the Act and the statutory guidance assist the Council in its capacity as the Licensing Authority, to determine applications made under the Act. The policy statement has been prepared in line with the statutory guidance and good practice.</p> <p>Contact officer: Sarah Farooqi, sarah.farooqi@teWKesbury.gov.uk, 01684 272693</p>
HR implications (including learning and organisational development)	<p>No HR implications arising from this report</p> <p>Contact officer: Julie McCarthy, julie.mccarthy@cheltenham.gov.uk, 01242 26 4355</p>
Key risks	As outlined in Appendix 1
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 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 listed in **Appendix 3**.

2. Consultation

- 2.1 Cabinet approved the draft policy statement for consultation on the 19th of June 2012. It further resolved to approve and recommend the draft policy statement for adoption by Council subject to there being no substantive amendments being made following consultation.
- 2.2 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.
- 2.3 A list of consultees is listed on page 25 of the draft policy statement.
- 2.4 Responses were received from 5 consultees;
 - The Association of British Bookmakers (no issues raised),
 - Casino Operators Association (no issues raised),
 - The Racecourse Association Limited (comments below),
 - Gloucestershire Fire And Rescue Service (no issues raised), and
 - HM Court Service Gloucestershire (no issues raised).
- 2.5 Comments from the Racecourse Association Limited;

<p>Location (Page 8) – The proposed location of gambling premises may be taken into account when assessing the application. The Council is asked to consider that the location of racecourses will not have altered since its foundation, and cannot be transferred to another location.</p>	<p>Comments noted. No amendments necessary.</p>
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<p>Additional Conditions (Page 9) – In certain circumstances the Council may impose additional conditions on racecourses to ensure the licensing objectives are met. The Council is asked to ensure that these conditions do not exceed those premises licence conditions outlined in the Premises Licence Mandatory and Default Conditions.</p>	<p>Comments noted. No amendments necessary.</p>
<p>Door Supervisors (Page 10) – The Council is asked to be aware that under the Licensing Act 2003 and the Private Security Industry Act 2001, racecourses are already required to provide licensed door supervisors in some roles. In line with the stipulation by the Council on Page 8 that they will seek to avoid duplication with other regulatory regimes, the Council should not impose any further provisions relating to door supervisors.</p>	<p>Comments noted. No amendments necessary.</p>
<p>Betting Machines (Page 13) – The Council is asked to note that racecourses do not hold Operating Licenses and consequently any betting machines on racecourses will be provided by other operators. The racecourses will contractually require these operators to fulfil any conditions with regard to the provision and supervision of these machines.</p>	<p>Comments noted. No amendments necessary.</p>
<p>Condition on Rules Being Displayed (Page 14) – The Council should be aware that it may not be practical for racecourses to print examples of the Standard Rules of betting (Tattersalls Rules) in their racecard or in a leaflet form. However, these will be displayed, in line with the Premises Licence Mandatory and Default Conditions.</p>	<p>Comments noted. No amendments necessary.</p>

3. Adoption

- 3.1 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.
- 3.2 The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 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.
- 3.3 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 Council's website, and
 - for public inspection in one or more public libraries or other premises in the Borough such as the Council Offices.
- 3.4 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.

4. Statutory Guidance

- 4.1 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.
- 4.2 Attached at **Appendix 4** is part 6 of the guidance entitled “Licensing authority Statement of Policy” for the information of Members.

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 5004
Appendices	<ol style="list-style-type: none"> 1. Risk Assessment 2. Draft Licensing Policy Statement of Principles 3. Breakdown of Amendments 4. 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 2005 3. Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 4. Gambling Commission Guidance to Licensing Authorities 3rd Edition (May 2009) 5. Officer’s report and minutes from Cabinet - 19 June 2012

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
	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 12	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