

COUNCIL	AGENDA ITEM 14(a)
5 December 2012	PUBLIC REPORT

GAMBLING ACT 2005 – PETERBOROUGH CITY COUNCIL’S REVISED STATEMENT OF PRINCIPLES

R E C O M M E N D A T I O N S
FROM : Solicitor to the Council
That Council: approves and adopts the attached Statement of Principles as Peterborough City Council’s formal three year Statement under Section 349 of the Gambling Act 2005.

1. PURPOSE AND REASON FOR REPORT

1.1 The purpose of this report is to provide members with the information they need to assist them with their decision in relation to adopting the attached Statement of Principles which incorporates amendments following the revised Guidance to licensing authorities issued by the Gambling Commission under Section 25 of the Act and comments received during the consultation process.

2. BACKGROUND (& CONSULTATION)

- 2.1 Under Section 349 of the Gambling Act 2005, it is a requirement for each Council to produce, adopt and publish a Statement of Principles (policy). This Statement will govern the way decisions are made by the Council, and how it will administer its duties under the Act. These duties include delegated powers, enforcement, considerations under the application process, Responsible Authority and Interested Party details, and the exchange of information. Without a Statement of Principles the Council may be subject to Judicial Review for failing in its responsibilities to carry out a statutory duty.
- 2.2 The Act requires that the Statement of Principles is kept under continual review to incorporate where necessary any changes to the legislation and or Guidance as appropriate. In addition to this, the Act specifies that the Statement must be reviewed and revised on a three yearly basis.
- 2.3 The Second three year period began on 31 January 2010 and therefore is due to expire on 30 January 2013. The revised Statement must be drafted and consulted upon prior to it being adopted.
- 2.4 In order to meet our statutory obligations, a revised Statement was drafted. Also in accordance with the Act, this revised Statement has been consulted upon, and all comments received have been considered and incorporated as appropriate.
- 2.5 In formulating the revised Statement, officers have given full consideration to the requirements of the Act, guidance issued by the Gambling Commission, and LACoRS (Local Authorities Coordinators of Regulatory Services) Model document. We have also liaised with colleagues from neighbouring authorities to ensure our Statements are consistent.
- 2.6 At a meeting on 22 November 2012 of the Licensing Committee there was a unanimous decision to approve the attached Statement of Principles having considered the responses received during consultation. In addition it was recommended that the Statement of Principles be adopted by Full Council.

- 2.7 The following outlines the procedure taken in providing the opportunity for members, statutory consultees and members of the public to be involved in the process of reviewing our Statement of Principles.
- 2.8 Before determining its Statement for any three year period (as required under s.349 of the Act), the licensing authority must consult the persons listed in s349 (3) as follows:
- Chief Officer of Police for the area;
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the area;
 - 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.
- 2.9 For information purposes a list of consultees is attached at **Appendix A**.
- 2.10 An eight week consultation took place between 31 August 2012 and 26 October 2012. The consultation letter gave advice on the following:
- i) Options on where to access and obtain copies of the draft revised Statement;
 - ii) Opportunity to make relevant representations, in writing, on the draft Statement; and
 - iii) Notification that any comments must be received by 26 October 2012.
- 2.11 The only response received during the consultation period was that of Cllr Hiller during the licensing committee meeting on 18 October, whose suggested change has been incorporated (please see **Appendix B** for suggested change).
- 2.12 A copy of the finalised statement is attached at **Appendix C**.

3. IMPLICATIONS

- 3.1 Section 154(2)(c) of the Gambling Act 2005 restricts final determination of the Statement of Principles to the authority and prohibits further delegation. On this basis the Statement of Principles must be approved by Full Council to be lawfully brought into effect.
- 3.2 Legal Services have been consulted on the content of the Statement of Principles. This was to ensure that the provisions of the Act including the licensing objectives and other issues that are key to the way the council approaches and deals with applications, are included in the Statement.
- 3.3 Legal Services will also be required to ensure that the decision making process is implemented in accordance with the Act, and may also be required to provide legal representation in the event of any appeals to the Magistrate's Court against decisions made by the council, prosecutions being instigated or enforcement action being taken by the council.

4. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

Gambling Act 2005

Guidance to Licensing Authorities (issued under section 25 of the Act, by the Gambling Commission May 2009)

LIST OF CONSULTEE'S

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area. The authority has therefore consulted:

- The Peterborough Greyhound Stadium
- British Greyhound Racing Board
- Gala Group Ltd
- British Beer and Pub Association
- British Bookmakers Trade Association
- British Casino Association

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 Gambling Act 2005:

- Cambridgeshire Constabulary – the chief officer of police
- Cambridgeshire Fire & Rescue Service
- Peterborough City Council – Planning Control
- Peterborough City Council – Neighbourhood Services
- Peterborough City Council – Directors
- Peterborough City Council – Ward & Parish Councillors
- Local Safeguarding Children Board
- Environment Agency
- HM Revenue & Customs
- The Gambling Commission
- GamCare
- All residents and businesses within the Peterborough area (through the Council website)

RESPONSES TO CONSULTATION

Please see below the suggested amendment to paragraph 7.9

Interested parties can also be represented by other persons such as their local councillors and Members of Parliament (MP's). There is a burden on ward councillors who are also licensing committee members to avoid beyond doubt any conflict of interest; therefore care should be taken when seeking representation. If there are any doubts please contact the licensing department.

To replace:

Interested parties can also be represented by other persons such as their local councillors and Members of Parliament (MP's). However should an individual wish to be represented by a councillor care should be taken that the councillor is not part of the licensing committee dealing with the licence application. If there are any doubts please contact the licensing department.