

**REPORT TO: LICENSING COMMITTEE - 25 NOVEMBER 2009
COUNCIL - 15 DECEMBER 2009**

REPORT BY: LICENSING MANAGER

REPORT AUTHOR: NICKII HUMPHREYS

Gambling Act 2005 – Adoption of Statement of Licensing Principles

1. PURPOSE OF REPORT

The purpose of this report is to detail the representations received in response to the consultation process undertaken on the draft Statement of Licensing Principles that was undertaken between 7 September 2009 and 6 November 2009. The report also requests the approval of the Licensing Committee of the proposed final statement and to commend it for formal adoption by the City Council.

2. RECOMMENDATIONS

(i) That the Licensing Committee:

a. Considers the responses received and approves the amendments to the proposed final statement of licensing principles;

b. Refers this report to the Council for information and guidance in respect of the requirements of the Gambling Act 2005;

(ii) Recommend that the Council adopts the statement of licensing principles in accordance with Section 349 of the Gambling Act 2005.

3. BACKGROUND

The Gambling Act 2005 (“The Act”) came into effect on 1 September 2007 and created a new system of licensing and regulation for commercial gambling in this country with the exception of the National Lottery and spread betting.

The Act also introduced a new regulator for gambling, the Gambling Commission (“the Commission”) and introduced a new licensing regime for commercial gambling. The new regime is conducted by the Commission or by local licensing authorities depending on the matter to be licensed.

The Act removed from licensing justices all responsibility for granting gaming and betting permissions. Instead, the Commission and licensing authorities share between them responsibility for all those matters previously regulated by licensing justices.

Licensing authorities

Licensing authorities have powers to licence gambling premises within their area which include the following:

- Licensing of premises where gambling activities are to take place by issuing Premises Licences;
- Issuing of Provisional Statements (in respect of premises yet to be built, altered or acquired);
- Regulating members' clubs and miners' welfare institutes who wish to undertake certain gaming activities by issuing Club Gaming Permits and/or Club Machine Permits;
- Issuing Club Machine Permits to Commercial Clubs;
- Granting permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres (existing function);
- Receiving notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines;
- Issuing Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required;
- Registering small society lotteries below prescribed thresholds (existing function);
- Issuing Prize Gaming Permits (existing function);
- Receiving and Endorsing Temporary Use Notices;
- Receiving Occasional Use Notices;
- Providing information to the Gambling Commission regarding details of licences issued; and
- Maintaining registers of the permits and licences that are issued under these functions.

The Licensing Objectives

The Act contains three licensing objectives that underpin the functions that the Commission and licensing authorities perform. These objectives are central to the new regulatory regime created by the Act. They are:

- Protecting children and other vulnerable people from being harmed or exploited by gambling;
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime; and
- Ensuring that gambling is conducted in a fair and open way.

The Act sets out licensing functions to be exercised by the Commission in relation to operating and personal licences, and by licensing authorities in relation to the licensing of premises and the grant of certain permits. In exercising these functions, the Commission and licensing authorities must be guided by the

licensing objectives.

Regulation of gambling

In accordance with Section 153 of the Act, in making its decisions about premises licences and temporary use notices, licensing authorities should aim to permit the use of the premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the Authority's statement of licensing principles.

Regulation of gambling in Great Britain is achieved through a variety of measures established under the Act. These include:

- Secondary legislation;
- Conditions on licences;
- Codes of Practice; and
- Guidance.

Responsible authorities and interested parties

The Act sets out two categories of organisations and individuals ("responsible authorities" and "interested parties") which may make representations in respect of an application having regard to the licensing objectives.

Responsible authorities

Responsible authorities are public bodies that must be notified of applications and that are entitled to make representations to the licensing authority in relation to applications for, and in relation to, premises licences.

Section 157 of the Act identifies the bodies that are to be treated as responsible authorities. They are:

- a. a licensing authority in England and Wales in whose area the premises is wholly/partly situated;
- b. the Gambling Commission;
- c. the Chief Officer of Police for the area in which the premises is wholly or partially situated;
- d. the fire and rescue authority for the same area;
- e. the local planning authority;
- f. an authority which has functions in relation to pollution to the environment or harm to human health;
- g. any body, designated in writing by the licensing authority as competent to

advise about the protection of children from harm;

- h. HM Revenue & Customs; and
- i. any other person prescribed in regulations by the Secretary of State.

Also, in relation to a vessel, but no other premises, responsible authorities will also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that would include:

- j. the Environment Agency;
- k. the British Waterways Board; and
- l. the Maritime and Coastguard Agency.

The Act contains a similar list of responsible authorities to that contained within the Licensing Act 2003, despite the lack of the corresponding licensing objective of public safety. The result the Act aims to achieve through the inclusion of a wide range of responsible authorities is one where all relevant regulatory bodies and organisations are made aware of the applications for gambling premises licences or other permissions. In many instances comments that responsible authorities make will be relevant to the licensing authority's determination.

Equally, in some cases, representations may not relate to matters that lead to the licensing authority refusing a premises licence. However, a policy of wide dissemination of applications allows responsible authorities to take action under their own legislation and enforcement powers, even if there is no direct role for them in the gambling licence process. The Act contains no obligation on responsible authorities to respond to applications for premises licences if they do not wish to do so.

Interested parties

To accept a representation from an interested party, the licensing authority must take the view that the person:

- a. lives sufficiently close to the premises to be likely to be affected by the authorised activities; or
- b. has business interests that might be affected by the authorised activities; or
- c. represents persons in either of these two groups.

Statement of licensing principles

Licensing authorities are required to publish every three years, a statement of the principles which they propose to apply when exercising their functions. This will set out how the authority will meet the licensing objectives of the Act. Authorities must consult on their draft statements so that communities and businesses will have a chance to comment on the authority's proposed approach.

In determining its principles, the Act states that the Council must consult with the following:

- 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 this Act.

The statutory guidance issued by the Gambling Commission in accordance with the Act advises that the list of person to be consulted when preparing the statement of licensing principles is deliberately wide. This enables licensing authorities to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the statement of licensing principles.

4. CONSULTATION PROCESS

Between 7 September and 6 November 2009, the draft Statement of Licensing Principles was made available for consultation in accordance with the statutory requirements together with other persons/bodies whom it was thought would have an interest and those who had previously requested sight of the document.

A list of those persons/organisations contacted in relation to the draft statement are outlined in the proposed final statement attached as Appendix A to this report.

In addition, the draft policy was published on the Council's website, copies were distributed to public libraries, the City Help Desk and to each of the Member's Rooms within the Civic Offices.

5 RESPONSE TO THE CONSULTATION PROCESS

At the conclusion of the consultation period, 1 response had been received from Terry Carter, Chair of Fratton Neighbourhood Forum who advised that in his opinion the policy is comprehensive in coverage and clear and balanced in its approach.

Members should also be aware that the statement of licensing principles was prepared in accordance with the statutory guidance issued by the Secretary of State. In addition, the content of the statement was in accordance with a "best practice" template made available to all local authorities by LACORS (Local Authorities Coordinators of Regulatory Services). This template was prepared by LACORS in consultation with the Department of Media, Culture & Sport and the Gambling Commission so as to ensure a certain level of consistency across the country by licensing authorities.

This template has been updated on a regular basis to take into account further advice and guidance which has emerged since the first statement of licensing principles was adopted by PCC in 2007. The proposed final statement incorporates all the latest amendments issued by LACORS.

6. OTHER STATUTORY REQUIREMENTS

Section 349 of the Act requires each licensing authority to prepare and publish a statement of licensing principles that they propose to apply in exercising their functions under the Act. Before a statement or revision comes into effect, the statutory regulations prescribe that authorities must publish and advertise the publication of the statement or revision according to certain requirements.

Publishing

The statement or revision must be published by being made available for a period of at least 4 weeks before the date on which it will come into effect:

- (a) on the authority's internet website; and
- (b) for inspection by the public at reasonable times in one or both of the following places –
 - (i) one or more public libraries situated in the local authority area;
 - (ii) other premises situated in the area.

Advertising

A notice must be published no later than the first day on which the statement or revision is published

- (a) on the authority's internet website; and
- (b) in or on 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. APPENDICES

- A. List of consultees;
- B. Proposed final statement of licensing principles


Licensing Manager

LIST OF CONSULTEES

All current holders of licence, permits and registrations under the Act

Association of British Bookmakers (ABB)

British Amusement Catering Trade Association (BACTA)

British Beer & Pub Association

British Casino Association (BCA)

British Greyhound Racing Board

British Holiday & Home Parks Association

British Institute of Innkeeping

Business In Sport & Leisure

Casino Operators' Association of the UK (COA (UK))

Citizens Advice Bureau

Connexions

Councillor Mike Hancock CBE MP

Dransfields

Gamblers Anonymous (UK)

Gam-Anon

GamCare

LACORS

Neighbourhood Forums

Portsmouth & SE Hampshire Chamber of Commerce & Industry

Portsmouth & SE Hampshire Partnership

Portsmouth City Primary Care Trust

Portsmouth Council of Community Service

Racecourse Association Limited

RAL Limited

Responsibility in Gambling Trust

Safer Portsmouth Partnership

Sarah McCarthy-Fry MP

Southsea Town Council

The Bingo Association

The Football Association

The Lotteries Council

Ward Councillors

Working Men's Club and Institute Union

The Chief Officer of Police

The Gambling Commission

The Chief Fire Officer

Head of Planning Services

Head of Public Protection Service

Head of Children, Families & Learning

HM Revenues & Customs

Queen's Harbour Master

Environment Agency

Maritime & Coastguard Agency