

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	Licensing Committee
2.	Date:	23rd May, 2006
3.	Title:	Gambling Act 2005
4.	Programme Area:	Neighbourhoods

5. Summary

The Gambling Act 2005 requires the Council to prepare and publish a Statement of Licensing Policy before it carries out any function in respect of applications made under the Act. The policy must be determined with a view to promoting the three licensing objectives; preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime; ensuring that gambling is conducted in a fair and open way; and protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Policy is a statement of how the Council intends to exercise the licensing functions imposed upon it by the Act. It may state the Council's general approach to the making of licensing decisions and the regulation of licensable activities. It should provide transparency for all those affected by the licensing regime which means not only applicants for a licence, but also local residents who are able to make representations to the Council in opposition to some applications.

A Statement of Licensing Policy must be prepared and published every three years. During the three year period, the policy must be kept under review and revised as appropriate.

6. Recommendation

1. **In order that the consultation process may commence on 1st June, 2006, it is recommended that Members approve the draft Statement of Licensing Policy (copy provided), and with not less that the persons/bodies listed in the Gambling Act 2005. In addition, Members are invited to submit any comments on the draft Policy, in writing, during the consultation period.**

7. Proposals and Details

Section 349 (3) of the Act requires the licensing authority to consult the following on the licensing policy statement or any subsequent revision:

- In England and Wales, 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 the Act.

The list of persons to be consulted when preparing the licensing policy statement is, according to the Gambling Commission, deliberately wide'. This is to enable licensing authorities to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the licensing policy statement.

The groups who will be engaged are those from the business community, as well as groups representing children and young people, disabled people, faith communities, older people, rural communities and the general public, amongst others.

The methods to be used are the more traditional 'mail shot' as well as internet and intranet exposure, council media services, focus groups, newsletters, meetings, the citizen's panel and direct contact with the general public through a 'stall' in the town centre.

This allows for a 'deeper', more strategic approach to consultation.

The views of all the above should be given appropriate weight when the policy is determined.

A draft Statement of Licensing Policy has been prepared by those Officers with responsibility for compliance with the requirement of the Act. Once the appropriate consultation has taken place the draft document will be finalised.

Officers have prepared the draft statement in accordance with 'The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006' which come into force on 31st March, 2006. The Regulations prescribe the form and procedure to be followed in preparing or publishing a statement.

Officers have also followed the Gambling Commission's draft 'Guidance to Licensing Authorities' published December 2005. This document sets out the matters that must be included with the Statement of Licensing Policy. At the time of writing, the finalised document has not been published.

Timing

The first day of the initial three year period is 31st January, 2007.

The Statement of Licensing Policy must be approved, published and advertised by 31st December, 2006. Final approval by full Council must be given to the Statement of Licensing Policy on 22nd November, 2006, at the latest.

This means that there will be a period of just eight months for the Council to commence and complete the consultation (which is for a period of 12 weeks), amend the existing draft policy, if necessary, and obtain approval of the final version from Cabinet and then full Council and publish the Statement.

In addition, it is imperative that the consultation period is not rushed. The reason for this is that Statements of Licensing Policy will be open to applications for judicial review. Such proceedings would prove costly, could require substantial re-wording of the Policy and re-consideration of affected licensing decisions.

8. Finance

Although 'draft' Gambling Commission guidance indicates that 'pump priming' money has been made available through Formula Grant this is not specifically identified within the grant allocation. Consequently a provision was not allocated to the service's 2006/07 budget and as such these costs will be contained within the approved 2006/07 budget. It is envisaged that this will contribute towards the annual efficiency requirements (Gershon).

The fees will be set by centrally by Government, with a formal consultation exercise proposed for 'mid 2006'.

9. Risks and Uncertainties

At the present time, licensing authorities have only received regulations in respect of producing the 'Statement of Licensing Policy'. Full guidance and regulations have not yet been finalised, and as previously mentioned, the fee structure will not be finalised until later in the year. Additionally, the Gambling Commission has only produced 'draft' documents in respect of 'Licence Conditions and Codes of Practice' and 'Guidance to Licensing Authorities'.

Considering this, it might be that final regulations and guidance documents will dictate changes to the 'draft' policy which will need to be reflected in the final version.

The consequences of the 'Statement of Licensing Policy' not being ready in time within the required time scales would be nothing short of disastrous. If the policy was not ready, the effect would be that applications which are quite properly made could not be considered if the policy was not published. This could lead to a host of appeals against the Authority, which could lead to substantial costs being awarded against the Council.

10. Policy and Performance Agenda Implications

The development of an appropriate 'Statement of Licensing Policy' and the successful implementation of the Gambling Act 2005 meets all relevant policy and performance agenda criteria. Specifically the Corporate Objectives of Rotherham Achieving, Alive and Safe, along with the cross-cutting Fairness and Sustainable development themes, apply to this scheme of work.

11. Background Papers and Consultation

Gambling Act 2005
Department of Culture, Media and Sport (DCMS)
Gambling Commission – Draft Guidance to Licensing Authorities

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