

REPORT FOR DECISION

Agenda Item	
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MEETING: EXECUTIVE

DATE: 29 NOVEMBER 2006

SUBJECT: POLICY STATEMENT - GAMBLING ACT 2005

REPORT FROM: EXECUTIVE MEMBER ENVIRONMENT & TRANSPORT

CONTACT OFFICER: ALAN FREER, BOROUGH ENVIRONMENTAL SERVICES OFFICER

TYPE OF DECISION: COUNCIL

FREEDOM OF INFORMATION/ STATUS: For publication the draft policy statement is within the public domain

SUMMARY:

This report advises Executive on the development of a Policy Statement as required by Section 349 Gambling Act 2005. Under the legislation the Local Authority (as Licensing Authority) is required to prepare and publish a Policy Statement of the principles it proposes to apply in exercising its functions. Each Policy Statement lasts for a maximum of three years but can be reviewed and revised at any time.

The Government has announced the 31. January 2007 as the first appointed day for the Act and the 3 January 2007 as the latest date for publication for the Policy Statement.

The draft policy was considered by Licensing and Safety Panel on the 26th October 2006

The final approval of the Policy Statement is reserved to Council.

OPTIONS AND RECOMMENDED OPTION (with reasons):

The Policy Statement can be accepted with or without further amendment by the Executive. In view of the very tight deadlines to be met it is recommended that :

The Policy Statement is accepted without major amendment and it be recommended for acceptance at Council in December 2006.

In addition to routine delegations under the Constitution a recommendation can be made to Council to delegate the setting of fees to Officers. It is recommended that Council make such a delegation.

IMPLICATIONS -

Corporate Aims/Policy Framework: Do the proposals accord with the Policy Framework? Yes No

Financial Implications and Risk Considerations

Although the detail is not yet known, the expectation is that post implementation full cost recovery fees will be payable for those licenses and permits issued by the Authority. However a considerable amount of preparation work is required prior to implementation.

Statement by Director of Finance and E-Government:

It is anticipated that the costs of licenses and permits issued by the Authority will be recovered by the fees payable. Any additional resources required for the preparation work required prior to implementation of the Act or to implement and enforce new duties under the Act will need to be met either from existing resources or be considered during the budget process for 2007/08

Equality/Diversity implications

Yes No

The Policy Statement will apply equally to all sections of the Community.

Considered by Monitoring Officer: Yes Comments

Are there any legal implications? Yes No

If the Authority does not have a Policy Statement in place by the 3 January 2007 it will be unable to fulfil its duties under the Act and would be acting unlawfully.

Staffing/ICT/Property:

The full impact of these new functions cannot yet be fully assessed as we still await much of the secondary legislation but additional staff may be required; currently estimated in the region of 1 fte.

Wards Affected: All equally

Scrutiny Interest: Environment and Transport

TRACKING/PROCESS**DIRECTOR:**

Chief Executive/ Management Board	Executive Member/ Chair	Ward Members	Partners
Scrutiny Commission	Executive	Committee	Council
		26 October 2006	13 December 2006

1.0 BACKGROUND

- 1.1 The Gambling Act 2005 requires the Authority to prepare and publish a Policy Statement prior to carrying out functions under the Act.
- 1.2 Regulations require that the Policy Statement be published by the 3 January 2007 being 28 days before the first appointed day of the 31 January 2007.
- 1.3 The Act is based on the promotion of 3 licensing objectives:
 - a) preventing gambling from being a source of crime and disorder
 - b) ensuring that gambling is conducted in a fair and open way and
 - c) protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.4 The Act provides that Authorities should aim to permit gambling in so far as they think it:
 - a) in accordance with issued codes of practice
 - b) in accordance with guidance issued by the Gambling Commission
 - c) reasonably consistent with the licensing objectives; and
 - d) in accordance with their Policy Statement
- 1.5 At present it is estimated that the Policy will have a direct impact on approximately 20-25 bookmakers, 3 adult entertainment centres (fruit machine arcades) and the majority of pubs and clubs where there are gambling machines, additionally it will be relevant for a number of small lotteries and occasional events such as charity race nights.

2.0 ISSUES

- 2.1 The Act places new duties on the Authority in relation to gambling. The principle duty being to issue premises licences and permits where premises are used for gambling purposes. In addition to premises licences the Act provides for Operator and Personal licences to be issued by the Gambling Commission (formally the Gaming Board).
- 2.2 The Act, regulations and guidance advise on the content of the Policy Statement. In response LACORS (Local Government Co-ordinating body for Regulatory Services) prepared a template to assist Authorities in preparing their Statements. With minor exception the Greater Manchester Authorities through the Licensing Managers' Group (GMLMG) adopted the template as a basis for consultation. The draft Policy Statement based on the template is attached as Appendix 1.
- 2.3 In accordance with the Cabinet Office Code of Practice consultation was undertaken over a 12-week period. The consultation has followed the legislative requirements. National and regional consultation was conducted collectively via the GMLMG supported by further local consultation. The full consultation was available via the Council's web site. Less than 10 responses were received and these have now been incorporated into the draft document. None were particularly controversial.
- 2.4 Functions can be delegated to the Licensing and Panel and Officers and a suggested scheme of delegation is contained within the Policy Statement.

- 2.5 There are 3 exceptions to delegation where matters are reserved to Council.
- a) a resolution not to issue casino licences. If the Council so wishes it can resolve not to have any casinos within its area.
 - b) functions in relation to the Policy Statement and
 - c) the setting of licence fees, unless there is a specific delegation is made by Council. Fees will expected to be set at full cost recovery within maximum and minimum figures set by Government, detail is not yet available as the supporting regulations are still to be published.
- 2.6 If the Policy Statement is not agreed by Council and published by the 3 January 2007 the Authority will not have fulfilled the statutory requirements of the Act and Regulations.
- 2.7 An Equality Impact Assessment has been completed and the Policy is considered to be largely neutral in impact.

3.0 CONCLUSION

- 3.1 The Authority is required to have a Policy Statement and it must be published prior to the Government prescribed date of 3 January 2007, otherwise the Council will be acting unlawfully.
- 3.2 For the Policy Statement to be agreed by that date it will need to be placed before Council at the 13 December 2006 meeting if a special Council meeting is to be avoided.

COUNCILLOR J BYRNE
EXECUTIVE MEMBER, ENVIRONMENT & TRANSPORT

List of Background Papers:

Draft Policy Statement attached as Appendix 1.

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