



## Full Council

11 July 2011

### Report from the Director of Environment & Neighbourhood Services

For Action

Wards Affected:  
ALL

## Statement of Gambling Licensing Principles

Forward Plan Ref:

### 1.0 Summary

- 1.1 The Gambling Act 2005 requires Licensing Authorities to publish a Statement of Principles that sets out their policy for dealing with applications and regulating gambling premises within their borough, which Brent did in January 2007.
- 1.2 These Statements of Principles are required to be reviewed, revised and published to reflect changes in legislation, the Gambling Commission's Guidance to Licensing Authorities, and on the experience of administration and enforcement by authorities.
- 1.3 The Executive agreed the final Statement of Principles on 11 April 2011 for approval by Full Council in July 2011.

### 2.0 Recommendation

- 2.1 It is recommended that Full Council approve for publishing the Council's revised Statement of Gambling Licensing Principles.

### 3.0 Detail

3.1 The Gambling Act 2005, which received Royal Assent in April of that year, did not actually come into force until September 2007, at which point Brent as a Licensing Authority took on extended responsibility for the licensing and regulation of premises where gambling is carried on e.g. betting offices, adult/family amusement centres, bingo halls, tracks, travelling fairs.

3.2 To facilitate this function the Council was required to publish a statement of principles by which it would apply to regulate gambling premises, and this Brent did in January 2007. The published statement must have regard to and be consistent with the three objectives laid down in the Act which in short are:

- Preventing gambling from being a source of crime and disorder;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from harm or exploitation.

In addition when preparing the statement licensing authorities are required to adhere to regulations and have regard to the Gambling Commission's Guidance (note: authorities departing from the guidance should have strong and defensible reasons for failing to take account, clearly expressed and explained, to avoid judicial review).

3.3 It is important to note that whilst the statement establishes the principles and criteria which the Council will apply in exercising its regulatory functions for this activity it cannot, however, consider matters relating to:

- Moral objections to gambling. Gambling is a lawful activity and objections cannot be considered on these grounds **alone**;
- Planning status of premises. A gambling licence application must be considered independently of any requirement for planning consent; and
- Demand. The fact that there may already be sufficient gambling premises within an area to meet existing demand **cannot of itself** be considered when considering a new licence application."

3.4 The statement must set out the principles which the authority proposes to apply in exercising its licensing functions under the Act. It has been pointed out by the DCMS (Dept. for Culture, Media and Sport) that these statements are meant to be high level statements of the principles to be applied by authorities when carrying out their functions, and not for them to enter into process detail.

3.5 Brent's statement of principles (attached as appendix A) was developed, prepared and consulted upon with due regard to the requirements of the regulations, and guidance from both Local Government Regulation (formerly LACORS) and the Gambling Commission, which achieves a degree of consistency across licensing areas and authorities and supports consistent regulation so that the industry know what the requirements of authorities are.

- 3.6 Consultation on the revised statement was wide and included the statutory consultees, those required by legislation, associations and authorities, the industry and all members.
- 3.7 The revised statement sent out for consultation and comment prior to final drafting and submission to the Executive Committee was not a new document but the original statement amended to bring it up to date with references, facts etc., and with revised sections in the following four notable areas:
1. Enforcement – the need to expand on the requirement to state what the authority’s policy is in respect of an inspection program that is risk based, proportionate and with appropriate criteria for enforcement.
  2. Splitting premises – this relates to the practice that some operators have been pursuing to try and establish two licensed premises (and thus additional gaming machines) within a single building/area by means of artificial or temporary separation.
  3. “Ready for gambling”- emphasis is being placed on the preferred option of applicants for premises licences to be directed along the alternative route of applying for “provisional statements” at the early stage when premises are not ready for occupation and gambling activity, and may not even be in the applicant’s ownership; the decision making and setting of conditions at such a stage for a premises licence may be inappropriate when all is not known!
  4. Temporary Use Notices (TUN) - this is a relatively new permission and it is important that licensing authority statements’ are clear about the possible misuse of the TUN provision by applicants who may try and achieve regular gambling in places that should only be limited, if at all, to no more than 21 days in any 12 month period.

There have been no responses to the consultation process on the revised statement of principles.

#### **4.0 Financial Implications**

- 4.1 The costs of undertaking the statement of principles process are contained within the existing service budget.

#### **5.0 Legal Implications**

- 5.1 The Council is required under section 349 of the Gambling Act 2005 to prepare and publish a statement of the principles that they propose to apply in exercising their functions and to review its statement “from time to time” and to

revise it if it thinks that this is necessary in light of the review and publish any revision.

- 5.2 In accordance with section 349 of the Act and the 2006 Licensing Authority Policy Statement Regulations the Council must publish the revised statement for at least four weeks prior to it coming into effect and advertise the fact that the revised statement is to be published.

## **6.0 Diversity Implications**

- 6.1 Section 4.3 of the Statement of Licensing Principles deals with diversity matters and reflects the Council's position and expectations.
- 6.2 From the implementation of the existing Council Statement of Licensing Principles (January 2007) equalities monitoring has been undertaken, which has not highlighted any adverse impact towards the various community groups or resulted in any complaints based on equalities issues.

## **7.0 Staffing/Accommodation Implications (if appropriate)**

- 7.1 There are none specific to this report.

### **Background Papers**

The Gambling Act 2005

London Borough of Brent – Statement of Gambling Licensing Principles

Gambling Commission – Guidance to Licensing Authorities (3<sup>rd</sup> edition May 2009)

LACORS – Statement of Principles Guidance, Template and notes

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