

## CABINET ITEM COVERING SHEET PROFORMA

**AGENDA ITEM**

**REPORT TO CABINET**

**29 NOVEMBER 2012**

**REPORT OF CORPORATE  
MANAGEMENT TEAM**

### **COUNCIL DECISION**

**Housing & Community Safety – Lead Cabinet Member – Councillor Steven Nelson**

#### **GAMBLING ACT 2005 – STATEMENT OF LICENSING PRINCIPLES**

1. Summary

Section 349 of the Gambling Act 2005 requires licensing authorities to publish a “statement of the principles that they propose to apply in exercising their functions” under the Act, and that the statement of principles shall be reviewed every three years. The current Statement of Licensing Principles was approved by Council in December 2009 and under the provisions of the Act, needs to be reviewed prior to re-publication in January 2013.

2. Recommendations

1. That members approve the draft revised statement of principles as outlined in **Appendix One** of this report

3. Reasons for the Recommendations/Decision(s)

The Gambling Act 2005 requires the authority to review and publish its statement of principles at least every three years, the current statement of principles was published in January 2010

4. Members' Interests

Members (including co-opted Members) should consider whether they have a personal interest in any item, as defined in **paragraphs 9 and 11** of the Council's code of conduct and, if so, declare the existence and nature of that interest in accordance with and/or taking account of **paragraphs 12 - 17** of the code.

Where a Member regards him/herself as having a personal interest, as described in **paragraph 16** of the code, in any business of the Council he/she must then, **in accordance with paragraph 18** of the code, consider whether that interest is one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest and the business:-

- affects the members financial position or the financial position of a person or body described in **paragraph 17** of the code, or

- relates to the determining of any approval, consent, licence, permission or registration in relation to the member or any person or body described in **paragraph 17** of the code.

A Member with a personal interest, as described in **paragraph 18** of the code, may attend the meeting but must not take part in the consideration and voting upon the relevant item of business. However, a member with such an interest may make representations, answer questions or give evidence relating to that business before the business is considered or voted on, provided the public are also allowed to attend the meeting for the same purpose whether under a statutory right or otherwise (**paragraph 19** of the code)

Members may participate in any discussion and vote on a matter in which they have an interest, as described in **paragraph 18** of the code, where that interest relates to functions of the Council detailed in **paragraph 20** of the code.

### **Disclosable Pecuniary Interests**

It is a criminal offence for a member to participate in any discussion or vote on a matter in which he/she has a disclosable pecuniary interest (and where an appropriate dispensation has not been granted) **paragraph 21** of the code.

Members are required to comply with any procedural rule adopted by the Council which requires a member to leave the meeting room whilst the meeting is discussing a matter in which that member has a disclosable pecuniary interest (**paragraph 22** of the code)

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**SUMMARY**

Section 349 of the Gambling Act 2005 requires licensing authorities to publish a “statement of the principles that they propose to apply in exercising their functions” under the Act, and that the statement of principles shall be reviewed every three years. The current Statement of Licensing Principles was approved by Council in December 2009 and under the provisions of the Act, needs to be reviewed prior to re-publication in January 2013.

**RECOMMENDATIONS**

1. That members approve the draft revised statement of principles as outlined in **Appendix One** of this report

**DETAIL**

1. Section 349 of the Gambling Act 2005 requires licensing authorities to publish a “statement of the principles that they propose to apply in exercising their functions” under the Act, applicable to a 3 year period.
2. The current Statement of Licensing Principles was approved by Council in December 2009 and under the provisions of the Act, needs to be reviewed prior to publication in January 2013.
3. In preparing the statement of principles licensing authorities are required to:-
  - Adhere to regulations issued by the Secretary of State
  - Consider guidance issued to licensing authorities by the Gambling Commission
  - Recognise the need to be reasonably consistent with the licensing objectives where applicable. The licensing objectives are set out at Section 1 of the Act and are:-
    - Preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime
    - Ensuring that gambling is conducted in a fair and open way
    - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
4. The Act also requires the licensing authority to consult with the following people on its statement of principles:
  - (a) the Police
  - (b) those who represent the interests; of gambling businesses in their area; and

- (c) those persons which represent interested persons likely to be affected by the exercise of the Authority's functions under the Act.

5. A revised statement of principles was drafted and after consideration by the Licensing Committee on 24 July 2012 was published for consultation (copy attached at **Appendix One**). The consultation was carried out with those parties identified in paragraph 4 above, in addition a public notice was placed in a local newspaper inviting comments and the consultation document was published on the Council's website. Only one letter with comments was received during the consultation period from the British Beer and Pub Association and a copy is attached at **Appendix Two**. Members are advised that this is the same response that was received before the initial statement of principles was determined in 2009.
6. Officers believe that the comments in the letter in respect of the grant of additional permits in alcohol licensed premises are adequately addressed in the Statement of Licensing Principles at paragraphs 24.2 – 24.6 and would not recommend any further amendments which could fetter the Council's discretion in being able to consider each application on its merits.
7. The Statement of Licensing Principles has been reviewed by the Licensing Committee at its meeting of 2 October 2012 when they recommended that the draft statement attached at **Appendix One** be referred to Cabinet for approval.

#### **FINANCIAL IMPLICATIONS**

8. None

#### **LEGAL IMPLICATIONS**

9. Section 349 of the Gambling Act 2005 requires that a licensing authority shall before each successive period of three years:
  - a) prepare a statement of the principles that they propose to apply in exercising their functions under this Act during that period, and
  - b) publish the statement.

#### **RISK ASSESSMENT**

10. The implementation of the revised Gambling Act Statement Of Licensing Principles is categorised as low to medium risk. Existing management systems and daily routine activities are sufficient to control and reduce any risk.

#### **SUSTAINABLE COMMUNITY STRATEGY IMPLICATIONS**

<b>Safer Communities - Children and Young People -</b>	The Gambling Act 2005 assists in preventing crime. The Gambling Act 2005 assists in protecting vulnerable children.
<b>Healthier Communities and Adults -</b>	The Gambling Act 2005 assists in protecting vulnerable adults.

#### **EQUALITIES IMPACT ASSESSMENT**

11. This report has been subject to an Equality Impact Assessment and has been judged to have a positive impact. No remedial actions are required.

#### **CONSULTATION INCLUDING WARD/COUNCILLORS**

Consultation was undertaken with all interested parties as required by the Gambling Act 2005

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Education related? No

Background Papers None

Ward(s) and Ward Councillors:

Property N/A