

CARLISLE CITY COUNCIL

Report to:- **The Chairman and Members of the Licensing Committee**

Date of Meeting:- 12th October 2009

Agenda Item No:-

Public

Operational

Delegated Yes

Accompanying Comments and Statements

Required

Included

Cumbria Fire Service

No

No

Cumbria Constabulary

No

No

Environmental Services

No

No

Planning Services

No

No

Title:-

GAMBLING ACT 2005 – STATEMENT OF LICENSING POLICY

Report of:-

DIRECTOR OF LEGAL & DEMOCRATIC SERVICES

Report reference:-

LDS 63/09

Summary:-

The Gambling Act 2005 came into effect on 7th September 2007. There is a requirement that Licensing Authorities must prepare and publish a licensing policy statement. This document will last for a maximum of three years. The first policy was published in January 2007 and a revised copy must be approved and published by Full Council by 3rd January 2010.

A 12 week period of consultation ended on 25th September 2009 and the responses have been considered by a working group of this committee.

Recommendation:-

Members to consider the responses to the consultation, prior to the draft version of the policy being placed before the Executive and Full Council in due course.

J A Messenger
Licensing Manager

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: Gambling Act 2005

To the Members of the Licensing Committee on 12th October 2009

BACKGROUND

1. The Gambling Act 2005 received Royal Assent in April 2005.
2. One of the major requirements for local authorities following the publication of the Gambling Commission Guidance is the formulation and consultation on its "Statement of Gambling Policy".
3. Section 349 of the Act reads:
 - (a) 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
 - (b) A licensing authority shall -
 - a) review their statement under this section from time to time,
 - b) if they think it necessary in the light of a review, revise the statement, and
 - c) publish any revision before giving it effect
 - (c) In preparing a statement or revision under this section a licensing authority shall consult -
 - a) the chief officer of police for the licensing authority's area
 - b) 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
 - c) 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

CONSULTATION

4. Prior to the consultation period, the Licensing Managers from the six Cumbrian Authorities met and made amendments to the draft policy in line with changes in legislation and advice from the Gambling Commission.
5. The consultation period on the draft 'Statement of Gambling Policy' was between 3rd July and 25th September 2009.
6. Consultation took place with the list of organisations included in Appendix 1 of the draft policy. Those with a direct interest e.g. Council Members, members of the trade, Cumbria Constabulary etc. were sent either a copy of the draft policy or a letter alerting them as to where it could be viewed. Approximately 300 others with an interest e.g. Parish Councils, premises licence holders etc. were sent a letter informing them of the

new legislation and directing them to where a copy of the draft policy may be obtained or viewed.

7. A press release was prepared and sent to Cumbrian Newspapers to coincide with the publication date of the draft policy and mid way through the period, in addition a copy was available on our website and featured on the home page 'banner' on two occasions..

RESPONSES TO CONSULTATION

8. This Council has received a total of 4 responses, with no additional relevant comments received by other county authorities. The responses are attached to this report (Appendix A1-A4). A summary of these comments has been prepared and is included (Appendix B). This summary lists the respondent, a précis of their comments, and the Licensing Manager's recommendations. For ease of comparison, the schedule refers to the same reference number as entered on the documents A1-4.
9. A Gambling Policy Working Group from the Licensing Committee has sat on two occasions to consider the draft policy, consultation process and the responses received. The attached version of the draft policy and summary reflects the results of their deliberation.
10. A copy of the latest version of the revised Gambling Policy, which incorporates the recommendations listed in the summary (Appendix B), is attached to this report for your information, amendments are in red (Appendix C).

TIMETABLE

11. The timetable for the implementation of the Policy is as follows:
 - 27 May 2009 – Licensing Committee form working group to oversee review
 - 3 July – 25 September 2009 – Consultation held on draft Policy Statement
 - 1 September 2009 – Executive consider first draft of policy
 - 26 September 2009 – Re-draft Policy Statement following consultation
 - 12 October – Licensing Committee consider recommendations of working group prior to being placed before Executive and Full Council in due course
 - 26 October 2009 – Executive considers final draft and makes recommendations to Council
 - 10 November 2009 – Full Council for approval
 - by 3 January 2010 – Publish Gambling Policy Statement
 - 31 January 2010 - Reviewed policy takes effect

RECOMMENDATIONS

12. Members to consider the responses to the consultation, prior to the draft version of the Policy being placed before the Executive and Full Council in due course.

REASONS FOR RECOMMENDATIONS

13. To secure the adoption of the Gambling Policy by Full Council in accordance with the required timetable.

Prepared by
J A Messenger
Licensing Manager



North of England

North East & Yorkshire Chairman:
Tim Dryland

North West Chairman:
Lynne D'Arcy LLB (Hons)

Regional Secretary:
Lee Le Clercq MA

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WF8 3DH

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thenorth@beerandpub.com

Principal Licensing Officer
Civic Centre
Carlisle
CA3 8QG

14 August 2009

Dear Sir/Madam,

Cumbria Local Authorities Statement of Licensing Principles (Gambling)

The British Beer & Pub Association (BBPA) represents brewing companies and their pub interests, and pub owning companies, accounting for 98% of beer production and around two thirds of the 60,000 pubs in the UK. Many of our members own and run pubs in Cumbria. The Association promotes the responsible sale of alcohol and management of licensed premises. It has a range of good practice information and guidance for member companies. Further information is available on our website at www.beerandpub.com.

a Overall, we welcome the approach taken by the Council in basing its draft Statement of Principles on the revised LACORS template, and are pleased to comment as follows. This response is also supported by BII, the professional body for the licensed retail sector, the Association of Licensed Multiple Retailers (ALMR), which represents the interests of smaller independent companies within licensed retailing and the Federation of Licensed Victuallers Association (FLVA) which represents self-employed licensees in England.

The protection of children and vulnerable persons

b We would like to take this opportunity to emphasise that pubs have had amusement with prize machines on their premises for many years. The BBPA has been pressing for legislation prohibiting under 18s from playing all cash machines (ACMs) since before the introduction of our Code of Practice on Minimum Age of Players, and we therefore very much welcome the restriction now contained in the new Gambling Act.

The Association first introduced its Code of Practice in 1998, and has kept it under regular review since then. As a result of the Code, which is supported by other trade bodies including the ALMR, BII, FLVA and BACTA, ACMs coming on to the market include the "No Under 18s to Play" prohibition notice in the front of the machine. The inclusion of this notice has been achieved at the instigation of the Association in co-operation with machine suppliers.

BBPA member company training schemes also reinforce the management of the machines to ensure the minimum age requirement is complied with, for example by requesting recognised ID such as a PASS accredited proof of age card, driving licence or passport where there is doubt that the player is 18 years of age or over.

Grant of additional permits

'C'
While there is no actual requirement under the Gambling Act 2005 for machines to be sited in the bar, we believe that supervision of machines is very important and this is again reinforced by our Code of Practice and staff training. Under the new regime, when operators apply for additional machine permits and they are complying with the Gambling Commission Code of Practice (which will of course replace the BBPA Code), there is no reason why these should not be granted. It would be helpful if the Statement of Principles could reflect this.

Application procedures for more than two machines

'd'
The Association would welcome the inclusion in the policy of an outline of the application procedures for permits for more than two machines. We understand that some councils are taking the view that they will grant up to four machine permits without the need for a hearing. We support such an approach in the interests of reduced administration and bureaucracy for both Councils and applicants and would encourage you to consider this possibility.

Last time around, both the BBPA and LACORS were concerned about the lack of a generic application form for permits but we are pleased that a standard form is now available.

We trust that these comments are helpful and that they will be taken into account in the final version of the policy. The BBPA is committed to ensuring a smooth transition to the operation of the new gambling regime and looks forward to working with you to achieve that objective.

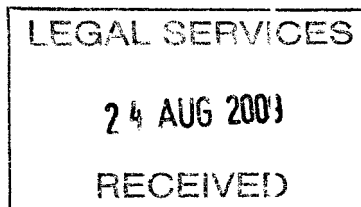
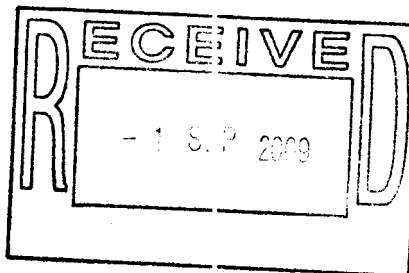
Yours faithfully

Lee Le Clercq

Service Headquarters • Station Road • Cockermouth
Cumbria • CA13 9PR
Tel: 01900 820251 • Fax: 01900 820249
Web: cumbriafire.gov.uk • Email: rick.charlton@cumbriacc.gov.uk

Date 21 August 2009
Your reference:
Our reference: FOG/RC

Mr J Messenger
Legal Services
~~Cumbria County Council~~ Carlisle City Council
~~The Courts~~
Carlisle
Cumbria
~~CA9 8NA~~



Dear Mr Messenger

Gambling Act 2005 Consultation on Statement of policy

In response to your letter dated the 3rd July regarding the draft joint statement of gambling policy on behalf of the six Cumbrian local authorities, I have the following comments to make in relation to ensuring compliance with the Regulatory Reform (Fire) Safety Order 2005 (RR(FS)O).

The general duties are stipulated within article 8 of the RR(FS)O and are common to all premises caught by the Order and states that:-

The responsible person must—

- (a) take such general fire precautions as will ensure, so far as is reasonably practicable, the safety of any of his employees; and
- (b) in relation to relevant persons who are not his employees, take such general fire precautions as may reasonably be required in the circumstances of the case to ensure that the premises are safe.

More specific to any premises that is issued with a licence are:-

Article 9 RR(FS)O

The Responsible person must carry out a suitable and sufficient fire safety risk assessment should be undertaken and should be made available on the premises. The assessment should cover all significant risks, which may affect any person who may be affected by fire and should include the means of access and egress from the premises. The assessment should be

reviewed at regular intervals, and when a significant change is made.

As soon as practicable after the assessment is made or reviewed, the information must be recorded.

The risk assessment is to be reviewed regularly so as to keep it up to date and particularly if:

- a) There is a reason to suspect that it is no longer valid; or
- b) there has been a significant change in the matters to which it relates including when the premises, work processes, or organisation of the work undergoes significant changes, extensions, or conversions.

Where changes to the assessment are required as a result of such a review, the responsible person must make them.

Article 11 RR(FS)O

The responsible person must record fire safety arrangements with regard to the nature of his activities and the size of his undertaking, for effective planning, organisation, control, monitoring and review of the preventative and protective measures.

All premises will be subject to periodic visits by a fire inspector whereby an audit of the premises and fire safety arrangements will be carried out.

Any significant areas for enforcement will be carried and the relevant Licensing authority will be informed accordingly.

If you require any further assistance please contact me at the above address, or your local fire safety inspectors for the respective area.

Yours

Rick Charlton, *F.Inst.Pa, MIFireE, SIIRSM, A.PLL*
Fire Protection Manager

for Chief Fire Officer

cc
File



3

THE RACECOURSE ASSOCIATION LIMITED

Winkfield Road, Ascot, Berkshire, SL5 7HX

Chairman & Chief Executive: 01344 873538
Racecourse Services: 01344 873536
Promotions and The Racegoers Club: 01344 625912

Finance Department: 01344 873537
Race Planning: 01344 625723
Communications: 01344 626067

www.britishracecourses.org e-mail: info@racecourseassociation.co.uk Fax: 01344 627233

HR/B4D

3 August 2009

Mr J A Messenger
Licensing Manager
Carlisle City Council
Civic Centre
Carlisle
CA3 8QG

Dear Mr Messenger,

Gambling Act 2005 Consultation on Statement of Gambling Policy

I am writing on behalf of the Racecourse Association, the trade association for 59 racecourses in Great Britain. We have read the Draft Statement of Gambling Policy for the six Cumbrian local authorities, to which we would like the opportunity to respond on behalf of our members.

a **Preface** - The Preface to the document should be reviewed, as this appears to relate to before the legislation was implemented.

b **Premises "ready for gambling" (Paragraph 9.8)** – The wording of this paragraph should be reviewed, as it is currently unclear.

c **Location (Paragraph 9.12)** – The proposed location of gambling premises may be taken into account when assessing the application. The Councils are asked to consider that the location of racecourses will not have altered since its foundation, and cannot be transferred to another location.

d **Additional Conditions (Paragraph 9.15)** – In certain circumstances the Councils may impose additional conditions on racecourses to ensure the licensing objectives are met. The Councils are asked to ensure that these conditions do not exceed those premises licence conditions outlined in the Premises Licence Mandatory and Default Conditions.

e
Door Supervisors (Paragraph 9.20) – The Councils are asked to be aware that under the Licensing Act 2003 and the Private Security Industry Act 2001, racecourses are already required to provide licensed door supervisors in some roles. In line with the Government's Better Regulation Agenda, and the stipulation in Paragraph 9.14 that they will seek to avoid duplication with other regulatory regimes, the Councils should not impose any further provisions relating to door supervisors.

f
Betting Machines (Paragraph 15.9) – The Councils are asked to note that racecourses do not hold Operating Licences and consequently any betting machines on racecourses will be provided by other operators. The racecourses will contractually require these operators to fulfil any conditions with regard to the provision and supervision of these machines.

g
Condition on Rules Being Displayed (Paragraph 15.10) – The Councils should be aware that it may not be practical for racecourses to print examples of the Standard Rules of betting (Tattersalls Rules) in their racecard or in a leaflet form. However, these will be displayed, in line with the Premises Licence Mandatory and Default Conditions.

h
Provisional Statements (Paragraph 17.3) – There is a spelling error in the first line of this paragraph, and 'sesame' should be amended to 'same'

i
Provisional Statements (Paragraph 17.4) - The wording of this section should be amended, as it currently implies that it will be necessary for tracks to hold an operating licence from the Gambling Commission in order to apply for a provisional statement, rather than confirming that tracks do not require an operating licence.

Should you wish to discuss the comments raised any further, please contact me on 01344 873536 or holly.robarts@racecourseassociation.co.uk

Kind Regards,

Holly Robarts
Racecourse Services Coordinator
The Racecourse Association Ltd

cc: Mr J. Baker, Carlisle Racecourse
Mr S Hodgson, Cartmel Racecourse
Mr J. Maxse, Jockey Club Racecourses

CHAS KENDALL (Turf Accountant) LTD

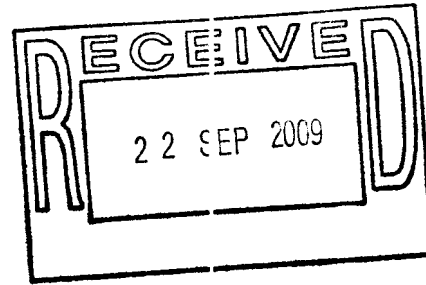
email: raceroom@chaskendall.com
www.chaskendall.com



Established 1925

Chairman: C. Rigg
General Manager: P.W. Lates
Secretary: K. Dodd

The Licensing Department.
Barrow-In-Furness Borough Council.
Town Hall
Duke Street,
Barrow-In-Furness.
Cumbria.



21st. September 2009.

Dear Sirs,

Re: Gambling Act 2005 – Consultation on Statement Policy.

Further to your letter, and also letters received from the other five Cumbrian Local Authorities, regarding the above act, we write to air our views on the matter.

Our biggest concern is the injustice in the licence fees charged, which is totally ante competitive, and is against small businesses, and favours the Public Companies.

Check your records and see how much William Hill's offices pay, compared with ourselves, what more work does The Council do for our company compared to William Hill?.

Chas Kendall's have been trading in the Cumbria for over 86 years, providing employment, paying rent, rates, taxes and supporting other local ancillary business's in the process.

William Hill has been in the town five years, a small time by comparison, yet gets preferential terms in regard the Licence fee, this cannot be right.

The same is true of Ladbrokes. These Public Companies are taking money out of the area, whilst we continue to support the Local Communities.

We would respectfully ask that, are views are passed to the other five Local Authorities, and that on our behalf you make recommendations to the Gambling Commission to redress this injustice.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P.W. Lates'. The signature is written in a cursive, somewhat stylized script.

P.W. Lates.

Director.

c.c. Carlisle City Council, Allerdale Borough Council, Copeland Borough Council,
South Lakeland District Council

**GAMBLING ACT 2005 – REVIEW OF STATEMENT OF LICENSING POLICY
SUMMARY OF PROPOSED AMENDMENTS TO EXISTING POLICY**

September 2009

Cumbria District Councils – Allerdale, Barrow, Carlisle, Copeland, Eden, South Lakeland

AMENDMENTS BY LICENSING MANAGERS PRIOR TO CONSULTATION			
Paragraph number	Title/description	Proposed amendment	Reason
5.3.1 to 5.3.7 inc	Considerations for assessing applications	Delete paragraphs and replace with amended paragraph 5.3	Amendments made to Gambling Commission (GC) guidance – 3 rd edition May 2009
7.4	Enforcement	Include more information regarding risk based inspection programme. Also add new paragraphs 7.6 & 7.7	Amendments to GC guidance (part 36)
9.4 to 9.6 inc	Definition of premises and sub-divisions	Amendments to all paragraphs	Amendments to GC guidance
9.7 to 9.10	Premises “ready for gambling”	Insert new paragraphs 9.7 – 9.10	Amendment to GC guidance
9.12	Link with planning	Insert new paragraph	Amendment to GC guidance (part 7.59)

Cumbria District Councils

9.13	Duplication with other regulatory regimes	Existing paragraph 9.8 re-numbered and more detail added	Amendment to GC guidance
9.20	Door supervisors	Amend existing paragraph	Amendment to GC guidance
13.1 to 13.4 inc	Bingo premises	Amend existing paragraphs	Amendments to GC guidance
13.5	Bingo premises	Delete existing paragraph 13.5	Amendment to GC guidance
14.3	Betting premises – betting machines	Amend existing paragraph	Amendment to GC guidance
15.8	Tracks – gaming machines	Amend existing paragraph	Amendment to GC guidance
15.9	Tracks – betting machines	Amend existing paragraph	Amendment to GC guidance
15.11-12	Tracks – applications and plans	Amend existing paragraph	Amendment to GC guidance
15.15	Tracks – betting areas	Insert new paragraph 15.15	Amendment to GC guidance
17.0	Provisional statements	Amend paragraphs 17.1 – 17.3 & insert new paragraphs 17.4 – 17.6	Amendment to GC guidance
18.0	Reviews	Amend paragraphs 18.1 – 18.4 & insert new paragraphs 18.5 – 18.8	Amendments to GC guidance
19.1-2	Permits/Temporary & occasional use notices	Amend existing paragraph	Amendment to GC guidance
23	Temporary use notices	Amend existing paragraph 23.1 & insert paragraphs 23.2 – 23.5 -	Amendment to GC guidance & implementation of Gambling

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			Act (Temporary Use Notices) Regulations 2007
Consultees		Update addresses	
Appendix 3	Categories of Gaming Machines	Amend categories, stakes and prizes	Amendments to GC guidance
RESPONSES FOLLOWING CONSULTATION – September 2009			
Doc. No.	Respondent	Proposed amendment	Recommendation
	Licensing Managers	Incorrect numbering after para. 9.18 to be corrected	Amend
1	British Beer & Pub Assoc	<p>a) Welcomes adoption of LACORS template</p> <p>b) Comments re children u/18 using AWP's</p> <p>c) Include the fact that there is no reason why additional gaming machines should not be permitted as long as GC Code of Practice is adhered to</p> <p>d) Include application procedure for machine permits</p>	<p>a) Noted</p> <p>b) Noted</p> <p>c) Amend para. 20.2 to include that officers have delegated power to grant up to 4 machines, applications for 5 or more will be considered by a licensing sub-committee on their own merit. Amend Appendix 4 – Delegation of Functions.</p> <p>d) Already included @ para 20.</p>

Cumbria District Councils

2	Cumbria Fire & Rescue Service	a) Outline of responsibilities of licence holder with regard to fire safety	a) Do not include. GC Guidance 6.4 states there should be a firm commitment to avoid duplication with other regulatory regimes, this includes H&S at work and fire safety
3	Racecourse Association	<p>a) Update preface b) Para. 9.8 unclear</p> <p>c) Para. 9.12 - location of racecourses have not altered since foundation and cannot be transferred</p> <p>d) Para. 9.15 - (numbering to be amended) request Councils not to impose additional conditions that exceed mandatory and default conditions</p> <p>e) Para. 9.20 - (numbering to be amended) Councils should not impose further provisions relating to door supervisors</p> <p>f) Para. 15.9 - Betting machines on tracks will be provided by other operators. Racecourse will require them to fulfil any conditions</p>	<p>a) Amend b) Our section concurs with the LACORS version. However agreed it is unclear. Amend to'..... licensing authority are satisfied will be ready near future, considering the scale of the building works or alterations required before the premises are brought into use.'</p> <p>c) All current racecourses have a premises licence. No change required.</p> <p>d) Each application must be considered on its own merit and we should not preclude the possibility of additional conditions. No change.</p> <p>e) As above. Also para. 9.21 (numbering to be amended) qualifies this. No change.</p> <p>f) Noted</p>

Cumbria District Councils

		<p>g) Para. 15.10 – Practicalities of printing rules on racecard</p> <p>h) Para. 17.3 – Spelling error</p> <p>i) Para. 17.4 – wording implies tracks require operating licence</p>	<p>g) Noted – this is just an example. No change.</p> <p>h) Amend</p> <p>i) Agreed, amend in brackets to: (tracks do not require an operating licence)</p>
4	Chas Kendall (Turf acct)	Concern over the injustice in licence fee structure (Directed at Barrow)	Not an issue for the policy. No action.