

# Gambling and the statement of principles - where LAs get it wrong

Local licensing authorities (have a statutory obligation to publish key information on their websites relating to the Gambling Act 2005 – but not all are doing it correctly, as **Charlotte Meller** explains

Section 349 of the Gambling Act 2005 stipulates that local licensing authorities (LAs) are required to prepare and publish a statement of principles that they propose to apply in exercising their functions under the Act.

Section 349(1) stipulates that the statement must be reviewed every three years, unlike under the Licensing Act 2003 (LA03), and Licensing (Scotland) Act 2005 (LSA05), where it is every five years.

LAs are separately required to review the statement from time to time and make changes, if necessary (s 349(2)).

These clauses are worded to be independent of each other, as echoed by the explanatory notes in the Act: “The policy will have effect for three years, but the authority may review and alter the policy during that period”. Therefore the three-year period does not reset if the statement is reviewed within that three-year period.

The Gambling Act (Licensing Authority Policy Statement) (First Appointed Day) Order 2006 set out the original first appointed day as 31 January 2007, with each subsequent new statement due thereafter at three-year intervals, namely January 2010, 2013, etc.

LAs’ current three-year statement must therefore be for the period 31 January 2022 – 2025. Even if an interim revision took place after 31 January 2022, the statement will still only run until 30 January 2025, with the next three-year statement due to take effect on 31 January 2025.

The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 set out the requirements for the form and publication of the statement and where the statements must be published.

*7(2) The statement or revision must be published by being made available for a period of at least 4 weeks before the date on which it will come into effect:*

- a. on the **authority’s internet website**; and
- b. for inspection by the public at reasonable times in one or both of the following places—
  - (i) one or more public libraries situated in the area covered by the statement or revision;
  - (ii) other premises situated in that area.

Similarly, the Gambling Act 2005 (Licensing Authority Policy Statement) (Scotland) Regulations 2006 state:

*6(3) The notice shall be published:*

- (a) on the **authority’s website**; and
- (b) in or on one or more of the following:
  - i. a local newspaper circulated in the authority’s area;
  - ii. a local newsletter, circular, or similar document circulated in the authority’s area;
  - iii. a public notice board in or near the principal office of the authority;
  - iv. a public notice board on the premises of one or more public libraries in the authority’s area.

Despite these legal requirements for current statements to be published on councils’ websites, the following shortcomings have been identified on nearly 100 council websites:

- Statements missing from websites completely.
- Websites carrying out-of-date policies (or in some

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cases many out-of-date policies as historic policies have been kept on the website in different locations).

- Draft policies only on websites even though they have been approved by full council.
- Websites directing the reader to contact the licensing team for gambling information.
- Some undated statements so applicants don't know if they are complying with the "current" three-year statement.

Although not a breach of the legislative requirement, a substantial number of statements are not located in the licensing section of the website along with other information about applying for gambling premises licences and permits. As a consequence, potential applicants and others would have to be most persistent to track down the statement within, for example, the council meeting minutes where it was approved, or within the consultation sections of the website even though the consultation had long closed.

The statement of principles acts as the primary vehicle for setting out a local licensing authority's approach to regulation having taken into account local circumstances. LAs without a current and up-to-date statement leave themselves open to legal challenge, their enforcement powers will be hampered, and they are failing in their regulatory responsibilities if they don't have a current statement published on their website.

## **Application forms and responsible authorities – absent or wrong**

The Gambling Act (2005) Premises licences and Provisional Statement) (England and Wales) 2007 and equivalent (Scotland) Regulations 2007 set out in detail the application forms and information which must be included in the accompanying plan for new applications, variations, transfers, reinstatement of licences and for provisional statements.

These regulations also make it clear that an application is not treated as having been made unless the notice to responsible authorities is made on the specified statutory form (regulation 13).

This means that applicants need to know where to find the forms and who the responsible authorities are for each LA.

### **Application forms**

Application forms are hosted on the Gambling Commission website, at the bequest of the Department for Culture, Media and Sport. LAs may add their own logo to these forms, but no

other amendments can be made.

It is apparent that some councils signpost the Gambling Commission as the repository for the forms; others host copies of the forms on their own website; some are completely silent on forms; and there are some examples of LAs creating their own forms.

It is worth noting that there are no prescribed forms for unlicensed family entertainment centres, prize gaming permits or licensed premises gaming machine permits. LAs must therefore make it clear how applications for these permits should be made and in what form.

### **Responsible authorities**

Section 157 of the Act sets out those bodies that are to be treated as responsible authorities and must be notified of applications and which are entitled to make representations. They are:

- A licensing authority in England and Wales in whose area the premises is wholly or partly situated.
- The Gambling Commission.
- The chief officer of police or chief constable for the area in which the premises is wholly or partially situated.
- The fire and rescue authority for the same area.
- In England and Wales, the local planning authority, or in Scotland, the planning authority.
- The relevant authority as defined in s 6 of the Police and Fire Reform (Scotland) Act 2012.
- An authority which has functions in relation to pollution to the environment or harm to human health.
- Anybody designated in writing by the licensing authority as competent to advise about the protection of children from harm.
- HM Revenue & Customs.
- Any other person prescribed in regulations by the Secretary of State. (None to date.)

Section 211(4) of the Act provides that in relation to a vessel, but no other premises, navigation authorities would be included within the list of responsible authorities.

While LAs are not obliged to provide contact information for these responsible authorities, it is good practice to do so and indeed many LAs helpfully host the information on their websites and / or within their statement of principles – through the HMRC details are not always accurate.

It is, however, a legal requirement for their statement of principles to include details of the competent body to advise about the protection of children from harm (The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 (regulation 5a) and the Gambling Act 2005 (Licensing Authority Policy Statement) (Scotland) Regulations 2006 (regulation 4(a)).

### Premises registers

Section 156 of the Act requires LAs to keep a register of premises licences issued and ensure that the location of their premises register, if not already on the website, is clearly stated, along with where and when it can be viewed (such as in the council offices) and if there is a cost for obtaining copies. This information is not always provided on websites.

Using the correct statutory forms, the premises licence application process requires applicants to send the Gambling Commission notice of the application whether new, variation, transfer, etc. (Regulation 12 of The Gambling Act 2005 (Premises Licences and Provisional Statements) (England and Wales) 2007 and equivalent (Scotland) Regulations

2007).

An LA is subsequently obliged to advise the Commission of the outcome of the application, whether granted or refused (ss 164 and 165 of the Act). LAs must notify the Commission of surrendered and lapsed premises licences (ss 192 and 194 of the Act respectively). LAs are also required to notify the Commission of their decision in respect of a review of a premises licence (s 203 of the Act).

The Commission uses the statutory notifications received from LAs to update the publicly available register of premises licences on its website.

Inspection of the premises licence register on the Commission's website will highlight if there are gaps and inaccuracies in the information held.

The information which the Act requires LAs and the Commission to be made available to the public can be extremely helpful to applicants, licence holders and any other person with an interest in the licensing of gambling premises. It is therefore extremely important that the information is not only readily available but is kept up to date.

### Charlotte Meller

*General Manager, Gambling Business Group*

## Important information about your membership renewal

We are in the process of changing over to a new IT system for membership and events and hope that the new system will be much more user friendly for our members.

In the meantime, the online renewal facility is disabled, so to renew your membership this year, please simply email the team via [membership@instituteoflicensing.org](mailto:membership@instituteoflicensing.org) and we will take care of the renewal for you.

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