



GAMBLING ACT 2005

DRAFT
STATEMENT OF PRINCIPLES

January 2013 – January 2016

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DRAFT

1 GENERAL

1.1 Purpose

Melton Borough Council is the licensing authority under the Gambling Act 2005. This means that the Council is responsible for dealing with Premises Licences, Permits and Occasional Use Notices and Temporary Use Notices in the Borough of Melton.

The Gambling Act 2005 requires the Council to prepare and publish a "Statement of Principles" that sets out the policies that the council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act. This meets the Council's obligations under Section 349 of the Gambling Act 2005 (referred to in this statement as "the Act").

Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. This statement will come into effect on the 31st January 2013 and will have effect until 30th January 2016. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must be then re-published.

This Statement of Principles has been prepared having regard to the provisions of the Guidance issued by the Gambling Commission and the licensing objectives of the Gambling Act 2005. Melton Borough Council will consult on this policy, having due regard to any responses from those consulted on this draft statement before adopting and publishing the final document

This Statement of Principles will be available on Melton Borough Council's website.

1.2 The Borough of Melton

Melton Borough is an attractive rural area in the north-east part of Leicestershire and at the heart of the East Midlands. It has an area of 48,138 hectares and is one of the 50 most sparsely populated districts in the UK.

The population of the borough at 2001 was 47,866 (2001 Census). It has increased by 1.6% over the past ten years and is expected to grow to about 52,000 by 2016 (Leicestershire County Council).

The main activities of the borough are centred on the single market town of Melton Mowbray, which has a population of about 25,000. There are some 70 small villages within the surrounding rural area. Bottesford and Asfordby are the two largest villages each with a population of about 3,000. The other villages range in size from small hamlets with 20 persons to villages where up to 700 people live.

A plan of the area is at Appendix A

1.3 Declaration

In producing the final licensing policy statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and those consulted on the policy statement.

1.4 Licensing Objectives

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- Preventing gambling from being a source of crime or 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

It should be noted that the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

This licensing authority is aware that, as per Section 158, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives and
- in accordance with the authority's statement of licensing policy

1.5 Responsible Authorities

These are generally public bodies that must be notified of all applications and who are entitled to make representations to the Council if they are relevant to the licensing objectives.

Section 157 of the Act defines those authorities as:-

- The Gambling Commission
- The Police
- The Fire Service
- The Local Planning Authority
- Environmental Health
- Child Protection Committee

- HM Revenue and Customs
- A licensing authority in whose area the premises is situated

Any concerns expressed by a responsible authority in relation to their own functions cannot be taken into account unless they are relevant to the application itself and the licensing objectives. In this regard the Council will not generally take into account representations which are deemed to be irrelevant, i.e.:

- there are too many gambling premises in the locality
- the premises are likely to be a fire risk
- that the premises is likely to lead to traffic congestion
- the premises will cause crowds to congregate in one area causing noise and nuisance

Each representation will, however, be considered on its own individual merits.

1.6 Interested Parties

An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities, or
- represents persons in either of the two groups above

In determining whether someone lives sufficiently close to a particular premise so as to be affected the Council will take into account, among other things:

- the size of the premises
- the nature of the premises
- the distance of the premises from the person making the representation
- the circumstances of the complainant
- the potential impact of the premises

In determining whether a person has a business interest, which could be affected, the Council will consider among other things:

- the size of the premises
- the catchment area of the premises, and
- whether the person making the representation has business interests in the catchment area that might be affected

If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, the Council

would not consider this, in the absence of other evidence, as a relevant representation, as it does not relate to the licensing objectives and instead relates to demand or competition.

The Council may, in certain circumstances, consider a representation to be either frivolous or vexatious. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision the Council will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises a 'relevant' issue or not, or
- whether it raises issues specifically to do with the premises which are the subject of the application

1.7 Exchange of Information

Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

1.8 Enforcement

In general, the Gambling Commission will take the lead role on the investigation and, where appropriate, the prosecution of illegal gambling.

The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the review process.

All licensing enforcement under the Gambling Act will be conducted in accordance with the Regulators Compliance Code. This code replaces the Enforcement Concordat. However this Council signed up to the Concordat and still believes in the principles it contains.

1.9 Planning

When determining an application, the licensing authority cannot take into account “irrelevant matters”, such as the likelihood of the applicant obtaining planning permission or building control approval.

An applicant can apply for a “provisional statement” if the building is not complete or if he does not yet have a right to occupy it. Such an application is, however, a separate and distinct process to the granting of planning permission or building control approval.

1.10 The Licensing Authority Functions

Licensing authorities are required under the act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate members’ clubs and miners’ welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Grant Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued (see section above on ‘information exchange’)
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via Operator Licences.

1.11 Consultation

In developing this Statement the licensing authority has consulted with the groups set out below, and has taken account of their views.

- Leicestershire Constabulary;
- Representatives of the holders of the various licences for premises within the Borough who will be affected by this policy;
- Persons/bodies representing the interests of persons likely to be affected by this policy.

A full list is shown at Appendix B.

2 PREMISES LICENCES

2.1 General Principles

Premises Licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as the specific mandatory and default conditions which are detailed in the regulations issued by Secretary of State. Licensing authorities are able to exclude default conditions and attach others, where it is deemed to be appropriate.

This licensing authority is aware that, in making decisions about premises licences, it should aim to permit the use of premises for gambling in so far as it thinks it is:

- In accordance with any relevant code of practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the Licensing Objectives; and
- In accordance with this authority's statement of licensing principles.

A premises licence will only be issued if this authority is satisfied that the premises are going to be used for gambling in the reasonably near future. Therefore if the construction of the premises is not yet complete, or if they need alteration, or if the occupant does not yet have the right to occupy them, then a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merit, applying a two stage consideration process:-

- Whether the premises ought to be permitted to be used for gambling.
- Whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

When considering applications for premises licences the Council will not take into consideration either the expected 'demand' for facilities or the likelihood of planning permission being granted.

The Council will maintain a register of premises licences issued and will ensure that the register is open for public inspection at all reasonable times.

2.2 Definition of Premises

In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in the third edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."

This licensing authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity names on the

premises licence.

The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

2.3 Bingo

Operators of premises offering Bingo (cash or prize) require a bingo operating licence from the Gambling Commission, and a premises licence from the licensing authority.

The holder of a bingo licence may, in addition to bingo in all its forms, make available for use up to 4 category B gaming machines (B3 & B4) and any number of category C & D machines.

Where category C and above machines are available in premises to which children are admitted the Licensing authority will normally require that:

- All such machines are located in an area separated by a physical barrier to prevent access other than through a designated entrance.
- Only adults are to be admitted into the area where these machines are located.
- Access to the area where machines are located is supervised
- The area where these machines are located is arranged so that it can be observed by staff: and
- At the entrance to, and inside, any such area there are prominently displayed notices indicating that the area is prohibited to persons under the age of 18.

2.4 Tracks

Applicants for a premises licence should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities.

Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence. This is important for ensuring that the right licence conditions are applied

Section 179 provides that a track betting premises licence may not authorise pool betting to take place other than in respect of dog racing and only where the acceptance of bets is by the holder of the betting premises licence, or in accordance with arrangements made by him. In the case of dog racing, this preserves the existing arrangements at dog tracks where the totalisator is operated by or on behalf of the occupier of the track.

2.5 Betting Premises

The holder of a betting premises licence may make available for use 4 gaming machines of category B (B2,B3,B4),C or D.

The licensing authority may, in accordance with section 181 of the Act, restrict the number of betting machines, their nature, and the circumstances in which those machines are made available for use. When considering whether to impose such a condition, the licensing authority will take into account the following:

- The size of the premises
- The number of counter positions available for person to person transactions; and
- The ability of staff to monitor the use of machines.

2.6 Adult Gaming Centres

In considering licence applications for adult gaming centres, weight will be given to the need to protect children and vulnerable persons from harm or being exploited by gambling. The licensing authority will therefore expect applicants to demonstrate that there will be sufficient measures in place to promote this objective.

Applicants will be encouraged to consider the following steps:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Location of and entry to premises
- Notices/signage
- Staff training
- Opening hours
- Self barring schemes
- Provision of leaflets and telephone numbers or organisations such as Gamcare.

2.7 Family Entertainment Centres

As Family Entertainment Centres particularly appeal to children and young persons, weight shall be given to child protection issues. Where category C machines are made available this authority will normally require that:

- Only adults are admitted to the area where these machines are located.
- Access to the area where Cat C machines are located is supervised and that the machines are located in an area that can be observed by staff.
- At the entrance to, and inside any such area, there are prominently displayed notices indicating that access to this area is prohibited by persons under 18.

2.8 Casinos

There are currently no casinos operating within the Borough.

There is no resolution to prohibit casinos in the Borough at present. However, the Council reserves the right to review this situation and may, at some time in the future, resolve not to permit casinos.

Should the licensing authority choose to make such a resolution, this will be a resolution of Full Council following considered debate, and the reasons for making the resolution will be given. There is no right of appeal against this resolution.

2.9 Travelling Fairs

This licensing authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land.

This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

2.10 Provisional Statements

Applicants for premises licences must fulfill certain criteria. They must hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they must have the right to occupy the premises in respect of which their premises licence is made. These restrictions do not apply in the case of a provisional statement.

The application for a provisional statement must be accompanied by plans and the fee. Responsible Authorities and Interested parties may make representations.

Once the premises are constructed, altered or acquired the holder of a provisional statement can return to this licensing authority and submit an application for the necessary premises licence.

2.11 Reviews

In determining what action, if any, should be taken following a review, this licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

This licensing authority can initiate a review of a particular premise, or a particular class of premise licence, on the basis of any reason which it thinks is appropriate.

3 PERMITS, TEMPORARY AND OCCASIONAL USE NOTICES

3.1 Unlicensed Family Entertainment Centre Gaming Permits

With regard to applications for Family Entertainment Centre Gaming Permits this licensing authority will ensure that applicant will demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family Entertainment Centres;
- that the applicant has no relevant convictions;
- that staff are trained to have a full understanding of the maximum stakes and prizes.

3.2 (Alcohol) Licensed Premises Gaming Machine Permits

There is provision within the act for Premises licensed for the sale of alcohol to automatically have two gaming machines of category C and/or D. For more than two machines a permit must be applied for. In considering such an application this licensing authority will have regard to the licensing objective of protecting children and vulnerable people from harm or being exploited by gambling. With this in mind this authority will satisfy itself that there are sufficient measures in place to ensure that under 18 year olds do not have access to the adult only machines. These measures are:

- Adult only gaming machines must be in sight of the bar.
- Staff will monitor that these machines are not being used by under 18s
- Notices and signage may be appropriate in certain circumstances.

It should be noted that the holder of such a permit is also required to have regard to the Code of Practice issued by the Gambling Commission.

3.3 Prize Gaming Permits

In considering applications for Prize Gaming Permits this authority will have regard to the Gambling Commission Code of Practice

3.4 Club Gaming and Club Machine Permits

Members Clubs must have at least 25 members and be established and conducted 'wholly or mainly' for purposes other than gaming, unless that gaming is permitted by separate regulations. (Bridge and whist clubs) This licensing authority will have regard to the Gambling Commission Guidance and any objections by the police when considering applications.

3.5 Temporary Use Notices

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a person or a company holding a relevant operators licence wishes to use the premises temporarily for providing facilities for gambling. Premises which may be suitable include hotels, conference centres, sporting venues etc.

The licensing authority expects to object to notices where it appears that their effect would permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's guidance to Licensing Authorities.

3.6 Occasional Use Notices

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The licensing authority will, however, consider the definition of a 'track' and whether the applicant is permitted to avail themselves of such a notice.

3.7 Lotteries

In carrying out its functions in relation to Lotteries the authority will have regard to the Act, the guidance issued by the Gambling Commission from time to time and any Regulations issued by the Secretary of State.

4 COMPLAINTS AGAINST LICENSED PREMISES

The Council will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

FURTHER INFORMATION

Further information about the Gambling Act 2005, this Statement of Gambling Policy or the application process can be obtained from:-

The Licensing Officer
Melton Borough Council
Parkside,
Station Approach
Burton Street
Melton Mowbray
Leics LE13 1GH
Tel: 01664 502502 Fax 01664 502522
E-mail Licensing@melton.gov.uk

Information is also available from:-

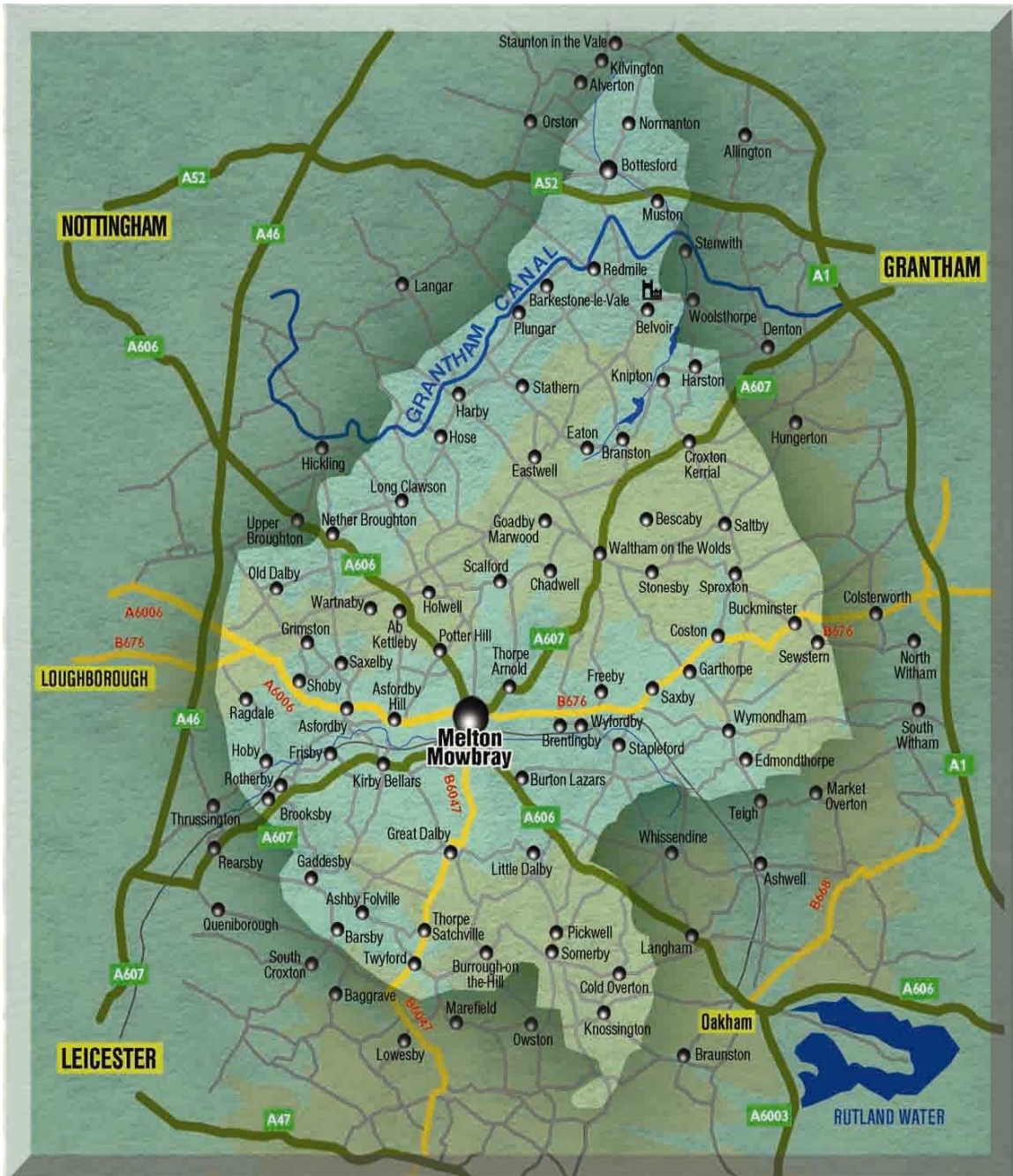
Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP
Fax: 0121 230 6720

Email: info@gamblingcommission.gov.uk

Telephone: 0121 230 6666

<http://www.gamblingcommission.gov.uk/>

APPENDIX A – Map of the Borough



APPENDIX B - Consultees

The Authority has consulted the following on the content of this Statement of Principles:-

- Association of British Bookmakers
- British Amusement Catering Association
- British Casino Association
- Bingo Association
- British Horse Racing Board
- British Greyhound Racing Board
- Casino Operators Association
- Club & Institute Union
- Gamcare
- Gamblers Anonymous
- Help The Aged
- Holders of existing licences, permits and registrations who will be affected by the provisions of the Act.
- Licensed Victuallers Association
- Lotteries Commission
- National Leisure Ltd
- Responsible Authorities
- Responsibility in Gambling Trust