

REVISED STATEMENT OF PRINCIPLES FOR GAMBLING ACT 2005 POLICY

Licensing Committee – 15 July 2015

Report of Chief Officer Environmental and Operational Services

Status: For Decision

Key Decision: Yes

Executive Summary: Section 349 of the Gambling Act 2005 requires all Licensing Authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three year period to which the policy applies. The previous Statement was issued in January 2013.

The Council's current Statement of Licensing Principles for the Gambling Act 2005 took effect from 3 January 2013. The draft policy attached as Appendix A requires approval for public consultation. The consultation for the policy will take place between 20 July 2015 and 4 September 2015, a period of 7 weeks. The list of consultees are in Appendix 5 of the draft policy. The responses will be collated and brought back to the Licensing Committee on 29 September 2015 for consideration. The final draft will be presented to full Council for approval on 3 November 2015.

The Gambling Commission has just completed consultation on its 5th edition of the guidance. The final guidance document, following consultation, will not be available until after the date by which the Licensing Authority must publish its revised Statement of Principles. Therefore, this document has addressed the areas introduced in the Gambling Commission's consultation. However, should the 5th edition of the Gambling Commission's guidance be radically different in the approach taken in this Policy the authority will revise its Policy and carry out further consultation before further amending its Statement of Principles.

This report supports the Key Aim of safe communities and effective management of Council Resources.

Portfolio Holder Cllr. Firth (Legal and Democratic)

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Recommendation to Licensing Committee:

It is recommended that Members approve the draft Statement of Licensing Principles for the Gambling Act 2005 for public consultation.

Reason for recommendation:

To enable the Council to make decisions for gambling premises applications with an up to

Introduction and Background

- 1 The Gambling Act 2005 replaced most of the existing law about gambling in Great Britain and put in place an improved, more comprehensive structure of gambling regulation. This included a new structure of flexible protection for children and vulnerable adults and, in particular, brought the burgeoning Internet gaming sector within British regulation. It created a new independent regulatory body, the Gambling Commission, which is the national regulator for commercial gambling in Great Britain.
- 2 The Act also puts in place a strong role for local authorities in licensing gambling premises in their area, and authorities are able to resolve not to licence any new casinos in their area if they do not want them.
- 3 The objective of the statement of principles is to provide a vision for the local area and a statement of intent that guides practice: licensing authorities must have regard to their statement when carrying out their functions. The statement cannot create new requirements for applicants outside of the Act and cannot override the right of any person to make an application under the Act, make representations or seek a review of a licence. However, it can invite people and operators in particular to consider local issues and set out how they contribute towards positively addressing them.
- 4 The licensing objectives as set out in the Gambling Act 2005:
 - 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; and
 - protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 5 Local authorities
 - Issue premises licences for Casinos, Betting Offices and Race Tracks, Bingo Clubs, Adult Gaming Centres and Family Entertainment Centres.
 - Issue permits for Gaming machine in members' clubs, Gaming in members' clubs, Unlicensed Family Entertainment Centres (Category D machines only) and Prize gaming
 - Issue Temporary Use Notices, Provisional Statements and Undertake inspections and enforce the conditions on the licences, permits and notices issued.
- 6 The categories under the Gambling Act 2005 are:

- Casinos
- Commercial Bingo Clubs
- Licensed Betting Premises
- Gaming Machine Premises
- Horse and dog racecourses

7 Licensing or permits enable businesses to provide specified maximum numbers and types of gaming machine. There are different types of gaming machines, with varying stakes (the amount allowed to be gambled at one time) and prizes (the amount the machines are allowed to pay out) and some types of machine are only allowed in specific premises. This is outlined in Appendix 6, page 30 of the draft policy. Maximum stakes and prizes are set by the Department of Culture, Media and Sport and are currently subject to a triennial review, the most recent of which took place in 2013.

8 Like the Gambling Commission, Licensing Authorities are bound by a statutory aim to permit and must accept premises application so long as they are made in accordance with :

- The Gambling Commission's codes of practice
- The guidance to local authorities (4th edition latest publication but the 5th edition has just completed consultation)
- The licensing Authority's own Statement of Principles
- The three licensing objectives.

Process

9 In developing the statement, the Act requires Licensing Authorities to consult with:

- Local police
- Those representing the interests of gambling businesses in their localities
- People likely to be affected by it (or those who represent them).

10 Authorities may also wish to consult with:

- Organisations including faith group, voluntary and community organisation working with children and young people, organisations working with people who are problem gamblers, such as public and mental health teams and advocacy organisations (such as the Citizen's Advice Bureau and trade unions)
- Local businesses
- Other tiers of local government
- Responsible authorities.

Cabinet office guidance on public consultations states that the time required for a public consultation 'will depend on the nature and impact of the proposal (for example, the diversity of interested parties or the complexity of the issue, or even external events) and might typically vary between 2 and 12 weeks.'

- 11 The public consultation for the policy will take place between 20 July 2015 and 4 September 2015, a period of 7 weeks. The list of consultees is in Appendix 5 of the draft policy.

Key issues for the statement of principles

Legal requirements

- 12 Licensing authorities are required to include within their statements a number of points set out in statutory regulations:
- a list of the three licensing objectives that the statement is intended to uphold
 - a commitment to upholding the statutory aim to permit gambling
 - a description of the geographical area to which the statement applies (typically a plan of the area)
 - a list of those consulted in preparing the statement
 - the principles the licensing authority will apply in designating a competent body to advise it about the protection of children from harm and, if already determined, who this body is. In most places, this will be the Local Safeguarding Children Board (see page 26)
 - the principles the licensing authority will apply in determining whether someone is an interested party for the purposes of premises licences or applications for them (see page 9)
 - the principles to be applied in relation to exchanging information with the Gambling Commission or other bodies with whom licensing authorities are authorised to share information under the Act
 - the principles to be applied in exercising inspection functions and instigating criminal proceedings.
- 13 The Gambling Commission has just completed consultation on its 5th edition of the guidance. The final guidance document, following consultation, will not be available until after the date by which the Licensing Authority must publish its revised Statement of Principles. Therefore, this document has addressed the areas introduced in the Gambling Commission's consultation.
- 14 However, should the 5th edition of the Gambling Commission's guidance be radically different in the approach taken in this Policy the authority will revise its Policy and carry out further consultation before further amending its Statement of Principles.

Other Options Considered and/or Rejected

- 15 Consideration was given to delaying the review of the Statement of Licensing Principles until the 5th edition of the Gambling Commission's guidance is published. However, a date has not been announced when this is likely to occur and there is a clear mandate and guidance from the Gambling Commission that the 3 year period still remains as a standalone period of time which is not reset – the review of the policy must be done during the 3 year period and not in place of a fresh policy being prepared and published every 3 years. The current 3 year period therefore requires Licensing Authorities to prepare and publish their policy statement by 3 January 2016 at the latest, with it coming into force on 31 January 2016.

Key Implications

Financial

- 16 The failure of the Authority to review, consult and publish the Statement of Licensing Principles every three years may result in a judicial review being brought against the Council.

Legal Implications and Risk Assessment Statement.

- 17 Should parts of the industry believe the authority's 'Statement of Licensing Principles' is not sound it would be open to them to undertake judicial review proceedings.
- 18 Sevenoaks District Council as the licensing authority must use this 'Statement of Licensing Principles' in the day-to-day operation of processing and granting of all licences and notices under the Gambling Act 2005.

Equality Assessment

- 19 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users. An Equality Impact Assessment has been carried out in drafting this policy.

Conclusions

- 20 Sevenoaks District Council as the licensing authority must use this 'Statement of Licensing Principles' in the day-to-day operation of processing and granting of all licences and notices under the Gambling Act 2005.

Appendices

Appendix A – Draft Statement of Licensing Principles for the Gambling Act 2005

Appendix B – Current Statement of Licensing Principles for the Gambling Act 2005

Background Papers:

4th edition of the Gambling Commission's guidance -
<http://www.gamblingcommission.gov.uk/pdf/GLA4.pdf>

Draft 5th edition guidance -
<http://www.gamblingcommission.gov.uk/pdf/GLA5-consultation--March-2015.pdf>.

Local Government Association – Gambling regulation
Councillor handbook (England and Wales) -
<http://www.local.gov.uk/documents/10180/6869714/L15-230+Councillor+handbook+-+gambling+regulation+FINAL.pdf/3e8fafb9-493b-4027-a7c8-0feb89b8e209>

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