

## REVISED STATEMENT OF PRINCIPLES FOR GAMBLING ACT 2005 POLICY

### LICENSING COMMITTEE – 29 SEPTEMBER 2015

Report of the: Chief Officer, Environmental and Operational Services

Status: For Consideration

Also considered by: Full Council – 3 November 2015

Key Decision: No

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**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.

Sevenoaks District Council has consulted on its revised draft Statement of Licensing Policy for the Gambling Act 2005 and feedback was invited by the 04 September 2015.

A summary of the feedback received is attached with this report (appendix A). Members are asked to consider the feedback that has been received and decide what to include in the final policy (appendix B). The responses that were received are in Appendix C.

The final draft policy will be presented to full council for ratification on 3 November 2015 and will become policy.

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**This report supports the Key Aim of Safe and Caring Communities and Dynamic and Sustainable Economy**

**Portfolio Holder** Cllr Mrs. Firth (Legal and Democratic)

**Contact Officer(s)** Mrs. Claire Perry 7325/07970731616

Mrs. Leeann Leeds 7270

Miss. Jessica Bolton 7480

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**Recommendation to Licensing Committee:** That the policy be recommended for adoption by Full Council.

**Recommendation to Full Council:** That the revised policy be adopted.

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**Reason for recommendation:** To enable the Council to make decisions for gambling premises applications with an up to date Statement of Licensing Principles.

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## **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.

## **Introduction**

- 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 (4<sup>th</sup> edition latest publication but the 5<sup>th</sup> edition has just completed consultation)
  - The licensing Authority's own Statement of Principles
  - The three licensing objectives.

### **Amendments to the Policy**

- 9 The Gambling Commission has completed consultation on its 5th edition of the guidance. The final document, following consultation, will not be available until the end of October at the earliest which is too late for the Authority to revise its Statement of Principles, consult and present to the Licensing Committee and Full Council before the date publication is required in January 2016.
- 10 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.
- Amendments to the Summary of stakes and prizes.
  - Mapped out and assessed local area profiles across the district to show there are no issues with high density of gambling premises. This shows that we have considered local risks in the area and the impact on children, young people and vulnerable adults.

## **Other Options Considered and/or Rejected**

- 11 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.
- 12 Members may decide not to include sections 6 and 7 of the policy and wait until the Gambling Commission publish the 5<sup>th</sup> edition of the guidance. A further consultation will be required should this option be taken.

## **Key Implications**

### Financial

- 13 Fee levels for licences and permits will be set by the Licensing Authority.
- 14 Sevenoaks District Council has a statutory obligation to administrate the Gambling Act 2005. Failure to run and deliver a satisfactory service could result in a Judicial Review being called for in the High Court.
- 15 Through Hearings and Appeals at the Magistrate Court the Council is liable for costs if awarded against Sevenoaks District Council.

### Legal Implications and Risk Assessment Statement

- 16 Decisions in relation to a licence are likely to amount to consideration of civil rights and obligations with the result that Article 6 (1) of the Human Rights Act 1998 is engaged.
- 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 The Gambling Commission will change their draft guidance and more or other changes will need to be made at a later date.

### Equalities 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 In producing the final licensing policy statement, this Licensing Authority declares that it will have had regard to the licensing objectives of the Gambling Act 2005, the current guidance issued by the Gambling Commission and any responses from those consulted on the policy statement.
- 21 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 – Feedback from the consultation

Appendix B – Gambling Act 2005 DRAFT Statement of Principles Gambling Policy

Appendix C – Responses received

**Background Papers:**

[Website: www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

Gambling Act 2005

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

Draft 5<sup>th</sup> 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>

**Richard Wilson**  
**Chief Officer, Environmental and Operational Services**