

**5 December 2018**



**Review of the Council's Statement  
of Gambling Policy.**

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**Report of Ian Thompson, Corporate Director, Regeneration and Local Services**

**Councillor Brian Stephens, Cabinet Portfolio Holder for Neighbourhoods and Local Partnerships**

**Electoral division(s) affected:**

None

**Purpose of the Report**

- 1 For Council to consider a Statement of Principles (Gambling Policy) for 2019 to 2021 in accordance with the Gambling Act 2005. Once adopted, the revised policy will enable the Council to continue to make decisions when exercising its responsibilities as the Licensing Authority under the Gambling Act 2005 for the next three years.

**Executive summary**

- 2 The Council is responsible for issuing licences under the Gambling Act 2005 and must prepare and publish, every three years, a statement of principles under the Act.
- 3 The Council's Statement of Gambling Policy provides advice to businesses and the public on the Council's overall position regarding the Gambling Act 2005 and a decision making framework which is used to exercise its functions under the Act.
- 4 A review of the current policy was required to enable the revision, re-publication and implementation by the end of January 2019.
- 5 Following a full public consultation exercise, all comments have been considered and where appropriate revisions have been proposed.
- 6 These proposed changes will enhance clarity, provide up-to-date information and advice to help applicants, existing licence holders and to any persons or organisations who may be affected by or be subject to the policy.

- 7 The proposed policy will improve decision making and ensure the continued protection of the public from gambling activities that take place at licensed premises for the next three years.

## **Recommendation**

- 8 That consideration is given to the Committee's recommendation, the consultation responses, officer proposals and content of the final draft statement of principles attached in **Appendix 2**.
- 9 That Council agrees to the adoption of the revised statement of principles.

## **Background**

- 10 Under the Gambling Act 2005, the Council is responsible for issuing premises licences for gambling premises such as casinos, bingo halls, betting offices, adult gaming centres and licensed family entertainment centres as well as permits for gaming machines in pubs, clubs and other alcohol-licensed premises.
- 11 The Act contains three licensing objectives, which underpin the functions of the Gambling Commission and the local authority, acting in their capacity as the licensing authority. These objectives are central to the regulatory regime created by the Act and 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; and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 12 Licensing authorities are required to prepare and publish, every three years, a statement of principles that they propose to apply when exercising their functions under the Gambling Act 2005, during the three-year period to which the policy applies
- 13 In preparing such a statement, licensing authorities must follow the procedure set out in the Act as well as the accompanying guidance. The last review leading to the adoption of the current statement of principles (SOP) was undertaken in 2016. A review of the current SOP was required to be undertaken to enable the revision and re-publication of this policy document by January 2019. For the purposes of the latest review period, the newly revised SOP must be published by 3rd January 2019 before it comes into force on 31st January 2019.
- 14 The SOP fulfils two principal purposes; firstly, it provides advice to businesses and the public on the Council's overall position regarding

the Gambling Act 2005. Secondly, it provides a decision-making framework for the Council via its Licensing Committee to exercise its functions under the Act. As such, the SOP must balance the legitimate needs of businesses and demand for leisure and cultural activities alongside the need to protect those adversely affected by activities. Failure to achieve the correct balance could lead to the policy statement being either, overly prescriptive and open to challenge, or alternatively, ineffective in the protection of local residents or through a failure to promote the licensing objectives effectively.

- 15 The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) require licensed operators to consider local risks. Gambling premises operators must undertake a risk assessment taking into consideration relevant local information. Licence holders must assess the local risk to the licensing objectives posed by the provision of gambling facilities at each of their premises. Under this SOP, operators will be expected to have their own policies, procedures and control measures in place to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in the licensing authority's Statement of Principles.
- 16 The draft, revised SOP attached at **Appendix 2**, produced following the review process, incorporates legislative requirements, national guidance and reflects current good practice.

## **Consideration**

- 17 Between May and August 2018 a public consultation exercise on the current statement of principles was conducted. The consultation took place in accordance with the Gambling Commissions guidance to Licensing Authorities and Government's Code of Practice on Consultation thereby allowing sufficient time for the consultation and for the return of responses.
- 18 The legislation provides the licensing authority with guidance on those organisations and bodies that the Council must consult with as part of the review. In addition to the statutory consultees, many other individuals, agencies and organisations considered to be affected by the SOP were identified and their comments were invited. We also contacted all existing Gambling licensees within in the County to obtain their views.
- 19 Consultation on the Council's SOP was widely advertised in the regional press. It also appeared on the Council's website, where e-mail responses were invited.
- 20 At the culmination of the consultation exercise six relevant responses had been received. All comments received are attached in **Appendix 3**.

- 21 All of the comments received have been taken into consideration. Where it was appropriate to incorporate received suggestions and recommendations into the revised draft, this has been done. Where it was not appropriate to do so, explanations have been provided as to why this is the case in the Table of Changes in **Appendix 4**. The majority of proposed changes were made following scrutiny of the current SOP by officers from Licensing Services with the aim to enhance clarity and provide useful information and advice to those who may be affected by or be subject to the policy.
- 22 The Licensing and General Purposes Committee was asked to consider the outcome of the consultation exercise at a committee held on Thursday 11<sup>th</sup> October 2018. At this meeting Members agreed to recommend to Council the adoption of the amendments and a revised version of the SOP. The minutes from this meeting are available on the Council's website.

## **Conclusion**

- 23 The Statement of Principles has been reviewed in accordance with the cyclical adoption requirements of the Gambling Act 2005. The proposed revised Gambling SOP incorporates legislative requirements and Gambling Commission Guidance.
- 24 Responses to the consultation have where it was appropriate to do so, been incorporated within the draft SOP. A copy of the final draft revised SOP is attached in **Appendix 2**.
- 25 The revised SOP has been recommended to Council for adoption by the General Licensing and Registration Committee

## **Background papers**

- Durham County Council's Gambling Act 2005 current Statement of Principles
- Gambling Commissions Guidance to licensing authorities - 5th edition September 2015

## **Other useful documents**

- None

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## **Appendix 1: Implications**

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### **Legal Implications**

It is a statutory requirement for a Licensing Authority to review, consult upon and publish, every three years, a Statement of Principles it proposes to apply when exercising Gambling Act functions. Such Statement of Principles should follow guidance and best practice in order to underpin decision making by the Licensing Authority in carrying out its functions. The decision to approve the Statement of Principles is an administrative decision which can be subject to challenge by judicial review. The individual decisions of a Licensing Authority may be challenged by statutory appeals mechanisms.

### **Finance**

The costs of consultation and publication of the revised policy will be met from existing budgets. The report has no value for money implications.

### **Consultation**

The 3 yearly review of the Statement of Principles is subject to Government Guidance which prescribes the statutory consultees who must be included in policy consultation. In addition to the statutory consultees, other relevant local, regional and national bodies and organisations have been identified and are consulted in relation to policy revision.

### **Equality and Diversity / Public Sector Equality Duty**

None – a screening exercise has been undertaken and no equality matters have been identified

A Diversity Impact Assessment (DIA) was carried out in the planning stages of this consultation.

### **Human Rights**

None

### **Crime and Disorder**

The Council's licensing Statement of Principles forms a central part of the control and regulation of the evening and night time economies. As such, it can be viewed as having a pivotal role in the prevention of alcohol related crime and disorder.

The effective control of licensed premises via appropriate conditions or restrictions on licences can significantly reduce the potential for alcohol

related issues or mitigate their effects. This coupled with monitoring and enforcement and the appropriate use of the review process can significantly contribute towards crime reduction and an increase in public reassurance.

## **Staffing**

None

## **Accommodation**

None

## **Risk**

None

## **Procurement**

None