

Report to: **Development Management and Licensing Committee**

Date: **13 November 2018**

Title: **Three-Yearly Review of Gambling Statement of Licensing Principles**

Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee:

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: **Full Council on 4 December 2018 – see below recommendation**

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**Recommendations:**

1. That the Development Management and Licensing Committee considers the draft Statement of Principles (**Appendix A**) and responses received during the public consultation and makes any changes it deems necessary.
2. That the Licensing Committee recommends to Council that the draft Statement of Principles, as amended, is adopted at the meeting on 4 December 2018 for the period 31 January 2019 to 30 January 2022.

## **1. Executive summary**

- 1.1 The Council's Licensing Authority has responsibilities under the Gambling Act 2005 (the 'Act') to issue premises licences, registrations, various types of permits and temporary permissions in respect of premises where it is proposed gambling take place.
- 1.2 Section 349 of the Act requires the Licensing Authority to prepare and publish a statement of the principles that it proposes to apply in exercising its functions under the Act during the three-year period to which the Policy relates. West Devon Borough Council adopted the initial Gambling Statement of Principles in November 2006. This fifth review of the Policy must be adopted in advance of January 2019.
- 1.3 Before determining the Statement, Licensing Authorities must first consult with certain persons or bodies in accordance with Section 349 of the said Act, namely:
  - The Chief Officer of Police;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

A list of the organisations/persons consulted is provided at **Appendix B**. The Statement was subject to a public consultation during the period 10 August to 5 October.
- 1.4 A summary of the changes from the current version (2016-2019), is provided at **Appendix C**.
- 1.5 The current Statement of Principles for 2016-2019 and the original consultation responses for the draft Statement are included within the background documents and are available upon request. A summary of the consultation responses, together with suggested amendments can be found at **Appendix D**. The suggested amendments have been provisionally incorporated into the revised draft 2019-2022 Statement, attached at **Appendix A**.

## **2. Background**

- 2.1 Not all gambling is dealt with by Borough Councils, for example, the Financial Services Authority and the National Lottery Commission continue to regulate spread betting and the National Lottery respectively. The Gambling Commission are responsible for granting operating and personal licences for commercial gambling (such as casinos and bingo halls) and to personnel working in the industry.

Borough Councils issue the premises licences and permits for betting shops, bingo halls and for gambling machines etc.

- 2.2 The Act contains three licensing objectives which underpin the functions of the Licensing Authority. These are:-
- a) Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime;
  - b) Ensuring that gambling is conducted in a fair and open way; and
  - c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.3 In determining its Policy, the Authority must have regard to Guidance issued by the Gambling Commission under Section 25 of the Act, and give appropriate weight to representations made within the consultation period.
- 2.4 The draft Policy has been prepared in consultation with the Devon Licensing Officers' Group and takes account of advice issued by the Local Government Association and the Gambling Commission Guidance to Local Authorities 5<sup>th</sup> Edition, issued 2015.
- 2.5 At this Committee meeting, Members will have a final opportunity to make any further amendments before a recommendation seeking approval is considered by the Council at its meeting on 4 December 2018.

### **3. Outcomes/outputs**

#### **3.1 Adoption Procedure**

- 3.2 Legislation prescribes that Council is empowered to adopt the Draft Statement of Principles. Adoption cannot be delegated to the Development Management and Licensing Committee.
- 3.3 The following timetable is proposed in respect of the consultation and adoption of the Statement of Principles:

<b>Action</b>	<b>Date</b>
Draft Statement of Principles published and distributed for consultation.	10 August 2018
Consultation concludes	5 October 2018
Development Management and Licensing Committee approval of revised Statement of Principles and agrees to recommend to Council for adoption	13 November 2018
Revised Statement of Principles approved by Council	4 December 2018
Statement of Principles published (at the latest)	3 January 2019
Statement of Principles comes into effect	31 January 2019

#### **4. Options available and consideration of risk**

- 4.1 Failure to produce a Gambling Statement of Principles in accordance with s.349 Gambling Act 2005 and its accompanying Regulations would be a breach of statutory duty. It would render the Council powerless to make decisions or exercise the licensing objectives in its locality.
- 4.2 Should the Statement not be adopted, the Council would be open to criticism and legal challenge.
- 4.3 The correct consultation process of the draft policy was undertaken between 10 August and 5 October 2018. See **Appendix B** for full list of those consulted. Following meeting of the Development Management and Licensing Committee on 13 November 2018, on track for adoption of Statement of Principles at Council meeting on 4 December 2018.

#### **5. Proposed Way Forward**

- 5.1 The Licensing Committee recommends to Council that the draft Statement of Principles, as amended, is adopted at the meeting on 4 December 2018 for the period 31 January 2019 to 30 January 2022.

#### **6. Implications**

<b>Implications</b>	<b>Relevant to proposals Y/N</b>	<b>Details and proposed measures to address</b>
Legal/ Governance	Y	<p>Section 349 of the Act requires the Licensing Authority to prepare and publish a statement of the principles it proposes to apply in exercising its functions under the Act during the three-year period to which the policy relates.</p> <p>Section 349(3) requires the Licensing Authority to consult the following persons/bodies:</p> <ul style="list-style-type: none"><li>• In England and Wales, the chief officer of police for the authority's area;</li><li>• One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;</li><li>• One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.</li></ul>

		<p>Before publishing the revised Policy, the Licensing Authority is required to publish a notice of its intention to public a statement or revision on its website and in/on one or more of the following places:</p> <ul style="list-style-type: none"> <li>• A local newspaper circulating in the area covered by the statement;</li> <li>• A local newsletter, circular, or similar document circulating in the area covered by the statement;</li> <li>• A public notice board in or near the principal office of the authority;</li> <li>• A public notice board on the premises of public libraries in the area covered by the statement.</li> </ul> <p>Legislation requires the Statement to take effect from 31 January 2019, but to be published and in place 4 weeks before.</p>
Financial		The associated preparation and publication costs will be met in full from Gambling Act 2005 applications and annual fees income. Therefore, there are no financial implications to the Council from this report.
Risk		<p>Failure to produce a Gambling Statement of Principles in accordance with the Gambling Act 2005 and its accompanying Regulations is a breach of statutory duty and will render Council powerless to make decisions or exercise the licensing objectives in its locality.</p> <p>Not adopting Policy could leave Council open to criticism and legal challenge.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity		There is the duty on Council when considering applications or enforcement action to comply with Human Rights Act 1998. Equality Impact Assessment carried out prior to publication.
Safeguarding		Protecting children and other vulnerable persons from being harmed or exploited by gambling is one of the licensing objectives underpinning the Gambling Act 2005.
Community Safety, Crime and Disorder		Preventing gambling from being a source of crime or disorder, being associated with crime and disorder, or being used to support crime is one of the licensing objectives underpinning the Gambling Act 2005.
Health, Safety and Wellbeing		
Other implications		

## **Supporting Information**

### **Appendices:**

Appendix A – Draft Gambling Statement of Licensing Principles

Appendix B – List of organisations/persons consulted

Appendix C – Summary of changes

Appendix D – Summary of consultation responses and suggested amendments

### **Background Papers:**

- Gambling Act 2005 and associated relevant Regulations
- Guidance issued under the Gambling Act 2005 (5<sup>th</sup> edition)
- Gambling Commission Licence Conditions and Codes of Practice (LCCP)
- West Devon Borough Council's Gambling Statement of Principles, which expires January 2019
- Consultation responses
- Tackling Gambling Related Harm – A Whole Council Approach, Local Government Association (LGA) in conjunction with Public Health England, July 2018.
- Gambling-related Harm as a Public Health Issue – Briefing paper for Local Authorities and local Public Health providers February 2018.
- Devon JSNA Community Profile 2017, Public Health Devon.

<b>Process checklist</b>	<b>Completed</b>
Portfolio Holder briefed	<b>Yes/No</b>
SLT Rep briefed	<b>Yes/No</b>
Relevant Exec Director sign off (draft)	<b>Yes/No</b>
Data protection issues considered	<b>Yes/No</b>
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	<b>Yes/No</b>