

Report to: **COUNCIL**

Date: **25 November 2021**

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

Portfolio Area: **Health and Wellbeing – Cllr Hawkins**

Wards Affected: **All**

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

Date next steps can be taken: **Immediately following this Meeting**

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RECOMMENDATION:

That Council be RECOMMENDED to adopt the draft Statement of Principles (as set out at Appendix A) for the period from 31 January 2022 to 30 January 2025.

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. South Hams District Council adopted the initial Gambling Statement of Principles in November 2006. This review of the Policy must be adopted in advance of January 2022.

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 13 September to 24 October 2021.

1.4 A summary of the changes from the current version (2019-2022), is provided at **Appendix C**. As the policy was updated in detail in 2019, only minor changes are required. The main proposed changes include more detail on the Licensing Authority's expectations when dealing with separation of premises, further information regarding premises licence plans and an overall update to the document with regard to the Gambling Commission's new Guidance and codes of practice.

1.5 The current Statement of Principles for 2019-2022 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 2022-2025 Statement, attached at **Appendix A**.

2. Background

2.1 Not all gambling is dealt with by District 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. District 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 which was last updated in May 2021.
- 2.5 This report was also scheduled for consideration by the Licensing Committee at a meeting to be held on 11 November 2021. Whilst this meeting was unfortunately declared inquorate, the six Committee Members in attendance did all express their support for the amended Principles to be presented to Full Council for its approval.

3. Outcomes/outputs

3.1 Adoption Procedure

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

Action	Date
Draft Statement of Principles published and distributed for consultation.	13 September 2021
Consultation concludes	24 October 2021
Licensing Committee recommend approval of revised Statement of Principles and agrees to recommend to Council for adoption	11 November 2021
Revised Statement of Principles approved by Council	25 November 2021
Statement of Principles published (at the latest)	3 January 2022
Statement of Principles comes into effect	31 January 2022

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 13 September and 24 October 2021. See **Appendix B** for full list of those consulted.

5. Proposed Way Forward

5.1 That the Council be recommended that the draft Statement of Principles, as amended, is adopted for the period 31 January 2022 to 30 January 2025.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
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"> • In England and Wales, the chief officer of police for the authority’s area; • 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 Act. <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"> • A local newspaper circulating in the area covered by the statement; • A local newsletter, circular, or similar document circulating in the area covered by the statement; • A public notice board in or near the principal office of the authority; • A public notice board on the premises of public libraries in the area covered by the

		<p>statement.</p> <p>Legislation requires the Statement to take effect from 31 January 2022, 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.
'Better Lives for All' Corporate Strategy		Community Wellbeing thematic area.
Climate Change & Biodiversity		No direct implications arising from this report.
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		No direct implications arising from this report.
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 (updated May 2021)
- Gambling Commission Licence Conditions and Codes of Practice (LCCP)
- South Hams District Council's Gambling Statement of Principles, which expires January 2022
- 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.
- Gambling regulation: Councillor handbook (England and Wales) 31 March 2018