

<b>General Licensing Committee Meeting</b>	
<b>Meeting Date</b>	2 <sup>nd</sup> October 2018
<b>Report Title</b>	Draft Statement of Licensing Principles under the Gambling Act 2005
<b>Cabinet Member</b>	Cllr Mike Cosgrove, Cabinet Member for Regeneration
<b>SMT Lead</b>	Mark Radford
<b>Head of Service</b>	Della Fackrell, Resilience & Licensing Manager
<b>Lead Officer</b>	Christina Hills, Licensing Officer
<b>Key Decision</b>	No
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. Members to note that there were no responses to the public consultation on the draft Statement of Licensing Principles under the Gambling Act 2005.</li> <li>2. Members to endorse the revised Statement of Licensing Principles under the Gambling Act 2005 so that it can be referred to Council on 14<sup>th</sup> November 2018 with a recommendation for adoption</li> </ol>

## **1 Purpose of Report and Executive Summary**

- 1.1 The Gambling Act 2005 requires the Council as licensing authority to prepare and publish a Statement of Principles under the Gambling Act 2005. Such a statement must be published before the authority carries out any function in respect of individual applications made under the terms of the 2005 Act. The Statement of Principles is required to comply with extensive national guidance, and any departures from it must be supported by evidence justifying a different policy approach.
- 1.2 Section 349 of the Gambling Act 2005 requires a licensing authority to review and publish a further Statement of Principles every three years. The existing Statement of Principles was published in January 2016 and is due for renewal by no later than 3<sup>rd</sup> January 2019.
- 1.3 A review of the existing Statement of Principles has been undertaken and was presented to General Licensing Committee on 12<sup>th</sup> July 2018 and is now brought back to Committee to consider the consultation responses prior to referral to Council on 14<sup>th</sup> November 2018.

## 2 Background

- 2.1 Swale Borough Council (the Council) is the Licensing Authority under the provisions of the Gambling Act 2005 (the Act). The Council is required to produce a 'Statement of Licensing Principles for Gambling' to demonstrate how applications received under the Act will be dealt with.
- 2.2 Section 153 of the Act requires that when exercising functions under the Act the Licensing Authority shall aim to permit the use of premises for gambling in so far as the authority thinks it is in accordance with:
  - a) any relevant code of practice;
  - b) any relevant guidance issued by the Gambling Commission;
  - c) is consistent with the licensing objectives (subject to a and b above), and;
  - d) the statement published by the authority under s.349 (Statement of Principles for Gambling).
- 2.3 The gambling objectives are:
  - a) preventing gambling from being a source of crime and disorder, being associated with crime and 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.
- 2.4 The Gambling Commission 5<sup>th</sup> edition Guidance recommends a number of changes for local authorities that fall under three broad themes:
  - a) increased focus on risk and regulation
  - b) greater attention to local risk; and
  - c) encouraging partnership and collaboration between stakeholders to mitigate risk
- 2.5 In particular the Commission recommends that local authorities create new and unique localised policies and also carry out an assessment of their local environment called a 'Local Area Profile' (LAP) to identify the local risk of gambling-related harm and to inform the Policy. Risk in this context includes potential and actual risk and can take into account possible future and emerging risks.
- 2.6 Completion of a LAP is not compulsory however it is recognised that there are significant benefits for both the Council and operators, in having a better awareness of the local area in relation to gambling-related risks. However, the creation of a LAP is dependent on information and knowledge of the local area and knowledge of the impact gambling may have. Officers intend to carry out an assessment to identify the areas of concern and publish a LAP separate to this Policy document. The reason for this is it will enable the LAP to be kept under

regular review so that if amendments are considered necessary they can be made without the necessity of amending the full Policy.

- 2.7 The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) formalise the need for operators to consider local risks.
- 2.8 Premises licence holders are required to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in the Statement of Principles and any published Local Area Profile.

### **3 Proposals**

- 3.1 A draft Statement of Licensing Principles has been prepared using a model template as recommended by the Gambling Commission. This is shown as **Appendix I**

### **4 Available Options**

- 4.1 It is a statutory requirement for the Council to have a current Statement of Licensing Principles in place covering the principles for its functions under the Act. The Authority is required to have an up to date policy and therefore should incorporate the 5<sup>th</sup> Edition of the Gambling Commission Guidance.

### **5 Consultation Undertaken**

- 5.1 An eight week consultation ran from 23<sup>rd</sup> July 2018 until 14<sup>th</sup> September 2018. Methods of consultation were by advertising on the Councils website and in local newspapers, by emails, post and social media.
- 5.2 Consultees were the following:
  - All Councillors
  - Parish Councils
  - Kent Police
  - Kent Fire and Rescue
  - Kent County Council Trading Standards
  - Gambling Commission
  - Swale BC Planning Department
  - Swale BC Environmental Health Department
  - HM Revenue and Customs
  - Children's Safeguarding Services
  - Relevant trade associations
  - Any Premises Licence holders issued by Swale Borough Council
  - Any Permit holders issued by Swale Borough Council
  - Any Small Lottery Licence issued by Swale Borough Council

- GamCare
- Gamblers Anonymous UK
- NHS Swale CCG
- Samaritans
- Citizen Advice Bureau
- Responsible Gambling Trust

5.3 Despite the widespread consultation no responses were received. This may be because by using the template as recommended by the Gambling Commission, gambling operators were satisfied with the content of the Statement of Licensing Principles and had nothing they wished to comment on or propose changes.

## 6 Implications

Issue	Implications
Corporate Plan	<p>Making Swale a better place</p> <p>A Council to be proud of</p>
Financial, Resource and Property	<p>Under the Act, the council has the power to recover its costs and set fees and charges at such a level that the process is cost neutral to the Council. There is however a statutory maximum fee that can be set for every licence type under the Act.</p> <p>The financial implications associated with the revision of the Statement of Principles will be financed from the Licensing budget.</p> <p>If at any time in the future the policy was subject to legal challenge, there could be costs associated with this process.</p>
Legal and Statutory	<p>Section 349(1) of the Act requires each licensing authority to prepare and publish a Statement of Principles to cover each period of three years and keep it under review from time to time.</p> <p>Without an up-to-date Policy in place, this could leave the authority open to legal challenge over the legitimacy of any decisions made.</p>
Crime and Disorder	<p>Fulfilling powers and duties under the Gambling Act 2005 is of direct relevance to the Councils duties under Section 17 of the Crime and Disorder 1998 in that the objectives of the Act are:</p> <ul style="list-style-type: none"> <li>• Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime</li> <li>• Ensuring that gambling is conducted in a fair and open way</li> </ul> <p>Protecting children and other vulnerable persons from being</p>

	harmful or exploited by gambling
Environmental Sustainability	No implications
Health and Wellbeing	No implications
Risk Management and Health and Safety	It is important that Swale BC has a robust and accountable regulatory regime in relation to gambling in order to ensure fair trading, prevent crime and to protect consumers.
Equality and Diversity	The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.
Privacy and Data Protection	Normal data protection and privacy rules will apply.

## 7 Appendices

- 7.1 The following documents are to be published with this report and form part of the report:
- Appendix I: Draft Statement of Principles under the Gambling Act 2005

## 8 Background Papers

The Gambling Act 2005