

Council	
Meeting Date	10 th November 2021
Report Title	Draft Statement of Principles for Gambling Act 2005
Cabinet Member	Cllr Richard Palmer, Cabinet Member for Community
SMT Lead	Charlotte Hudson,
Head of Service	Head of Housing and Community Services
Lead Officer	Christina Hills, Licensing Officer
Key Decision	No
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. Members are asked to adopt the draft version of the Swale Statement of Principles under the Gambling Act 2005 in order that it can be published and come into effect on 3rd January 2022. 2. Members are asked to adopt the draft version of the Local Area Profile so that it can be published as Appendix 3 of the Swale Statement of Principles under the Gambling Act 2005.

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 2019 and is due for renewal by no later than 31st January 2022.
- 1.3 A review of the existing Statement of Principles has been undertaken and was presented to the Licensing Act 2003 Committee on 1st July 2021 prior to public consultation. It was then then brought back to the Licensing Act 2003 Committee on 9th September 2021 where Members made the following recommendations:

- (1) That Council note that there were no responses to the public consultation on the draft Statement of Principles under the Gambling Act 2005.
- (2) That Council adopt the draft Statement of Principles under the Gambling Act 2005.

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 5th edition Guidance (as amended) 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.

- 2.7 Officers carried out an assessment to identify the areas of concern and compiled a draft Local Area Profile which was presented to the Licensing Act 2003 Committee on 1st July 2021 prior to public consultation. It was then brought back to the Licensing Act 2003 Committee on 9th September 2021 where Members made the following recommendation:

Recommended:

- (1) That Council adopts the Local Area Profile under the Gambling Act 2005.
- 2.8 If Council is minded to adopt the LAP it will be published as Appendix 3 of the Swale Statement of Principles under the Gambling Act 2005. 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.
- 2.9 The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) formalise the need for operators to consider local risks.
- 2.10 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 Principles has been prepared using a model template as recommended by the Gambling Commission. This is shown as **Appendix I**.
- 3.2 A draft Local Area Profile has been prepared. This is shown as **Appendix II**.

4 Alternative Options

- 4.1 It is a statutory requirement for the Council to have a current adopted Statement of Licensing Principles in place covering the principles for its functions under the Act. The Statement of Principles should incorporate the 5th edition (as amended) of the Gambling Commission Guidance.
- 4.2 Swale Council could choose not to adopt a Local Area Profile. However, this would be contrary to the recommendations of the Gambling Commission contained within their Guidance

5 Consultation Undertaken or Proposed

- 5.1 A six week consultation ran between 5th July 2021 until 13th August 2021 for both the Statement of Principles and the Local Area Profile. Methods of consultation and consultees were agreed by Members at the 1st July 2021 meeting of the Licensing Act 2003 Committee and were widespread as recommended by the Gambling Commission.
- 5.2 Despite the widespread consultation no responses regarding the Statement of Principles were received. This may be because by using a template as recommended by the Gambling Commission, gambling operators were satisfied with the content of the draft Statement of Licensing Principles and had nothing they wished to comment on or propose changes.
- 5.2 With regards to the Local Area Profile three (3) responses were received. One of them had no comments to make and the other two of the comments were in support of the Local Area Profile.

6 Implications

Issue	Implications
Corporate Plan	There are links to the Corporate Plan Priority 4: Renewing local democracy and making the council fit for purpose.
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, Statutory and Procurement	<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.</p> <p>In preparing a Statement of Principles the regulations require licensing authorities to publish a notice of intention to publish a statement. The notice must:</p> <ul style="list-style-type: none">• specify the date on which the statement is to be published• specify the date on which the statement will come into effect

	<ul style="list-style-type: none"> • specify the internet address where the statement will be published and the address of the premises at which it may be inspected • be published on the authority’s website and in/on one or more of the following places for at least four weeks before it comes into effect: <ul style="list-style-type: none"> • a local newspaper circulating in the area covered by the statement • a public notice board in or near the principal office of the authority
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 Act 1998 in that the objectives of the Act are:</p> <ul style="list-style-type: none"> • Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime • Ensuring that gambling is conducted in a fair and open way • Protecting children and other vulnerable persons from being harmed or exploited by gambling
Environment and Climate/Ecological Emergency	No implications
Health and Wellbeing	<p>Gambling addiction can cause serious financial problems and impact on the mental health and wellbeing of the person addicted as well as their families.</p> <p>The Statement of Principles must reflect that it has taken into account the licensing objective of “Protecting children and other vulnerable persons from being harmed or exploited by gambling”.</p> <p>The aims of the Local Area Profile are to identify the areas within Swale Borough mostly likely to be at risk of gambling related harm, which may help to identify possible persons who could be most at risk of gambling addiction.</p>
Safeguarding of Children, Young People and Vulnerable Adults	<p>Gambling addiction can cause serious financial problems and impact on the mental health and wellbeing of the person addicted as well as their families.</p> <p>The Statement of Principles must reflect that it has taken into account the licensing objective of “Protecting children and other vulnerable persons from being harmed or exploited by gambling”.</p> <p>The aims of the Local Area Profile are to identify the areas within Swale Borough mostly likely to be at risk of gambling related harm,</p>

	which may help to identify possible persons who could be most at risk of gambling addiction.
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
- Appendix II: Draft Local Area Profile

8 Background Papers

Gambling Act 2005
5th edition (as amended) of the Gambling Commission Guidance.