

Revised Statement of Principles for Gambling Act 2005 Policy

Final Decision-Maker	Full Council
Portfolio Holder	Councillor Dr Ronen Basu
Lead Director	Jonathan MacDonald, Director of Planning and Development
Head of Service	Gary Stevenson, Head of Environment and Street Scene
Lead Officer/Report Author	Sharon Degiorgio, Senior Licensing Officer
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. To consider the outcome of the 12 week consultation responses on the proposed Tunbridge Wells Borough Council's Statement of Licensing Principles / Gambling Policy drafted in accordance with the Gambling Commissions 5th edition Guidance, and consider whether further amendments are required.
2. To recommend the amended policy to Full Council for adoption.

This report relates to the following Five Year Plan Key Objectives:

- A Confident Borough
In the interests of transparency the licensing regime is intended to ensure that the people of Tunbridge Wells can be confident that all premises that provide gambling facilities are subject to relevant codes of practice and guidance in managing their business activities in a controlled manner.

Timetable

Meeting	Date
Licensing Committee	31 January 2017
Full Council	22 February 2017

Revised Statement of Principles for Gambling Act 2005

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Section 349 of the Gambling Act 2005 requires all Licensing Authorities to prepare and publish a statement of licensing principles that they propose to apply in exercising their functions under the Act during the three year period to which the policy applies. Section 155 states that this function may not be delegated from Council and so this Committee will recommend a proposed document to Council following consultation.
 - 1.2 The current policy took effect in January 2016 after an initial 'light touch' review as the publication of the 5th edition of Gambling Commission Guidance was published too late to be included in the draft. Members agreed that a more detailed review of the policy should be undertaken which was considered by this Committee on 6th September 2016. Members authorised the officer to undertake a public consultation on the proposed policy.
 - 1.3 This report sets out the detailed responses received from the consultation exercise. We have considered the consultees responses and in consultation with legal services have amended the document where appropriate, taking into account views expressed.
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2. INTRODUCTION AND BACKGROUND

- 2.1 Tunbridge Wells Borough Council is the Licensing Authority under the provisions of the Gambling Act 2005 (the Act).
- 2.2 The Council is required to produce a Statement of Licensing Principles for the Gambling Act 2005 to demonstrate how applications received under the Act will be dealt with.
- 2.3 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 s.24;
 - (b) any relevant guidance issued by the Gambling Commission under s.25;
 - (c) is reasonably consistent with the licensing objectives (subject to a and b above), and;
 - (d) the statement published by the authority under s.349 (statement of licensing policy) (subjects to paragraphs a to c above).
- 2.4 The Gambling Commission (the Commission) has introduced new provisions in its social responsibility code within the [Licence Conditions and Codes of Practice \(LCCP\)](#), which require gambling operators to assess the local risks to

the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks. This change in national policy is intended to provide a well evidenced and transparent approach to considering and implementing measures to address the risks associated with gambling. In making these risk assessments licensees must take account of the Licensing Authority's Statement of Licensing Principles.

2.5 The gambling objectives are:

- i) preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime
- ii) ensuring that gambling is conducted in a fair and open way and
- iii) protecting children and other vulnerable persons from being harmed or exploited by gambling.

2.6 The consultation was undertaken for a period of 12 weeks from 9th September until 2nd December 2016, based on the policy set out in Appendix A. The authority received three responses which are summarised together with the officer's comments in Appendix B. I have also attached a detailed response from one of the respondents in Appendix C; however the pertinent issues are addressed in the summarised table at Appendix B.

2.7 Members will be required to consider these responses together with the officer's comments and to determine whether they need to be reflected in the Policy before referral to Full Council for adoption.

3 AVAILABLE OPTIONS

3.1 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. As part of this review we have incorporated the 5th edition of the Gambling Commissions Guidance. Members are required to consider the outcome of the consultation and determine whether any further adjustments are required to the made to the draft amended policy.

4 PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 A comprehensive updated policy will improve the consistency in delivering the service and will better inform applicants of the licensing process in an open and transparent way, enabling the Authority to continue to have a 'fit for purpose' policy in place.

5 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

5.1 A detailed public consultation was undertaken on the revised draft document and the responses received are set out at Appendix B

6 NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 On consideration of the responses received and any amendments required to the draft policy, Members approve that the amended draft policy is submitted to Full Council for adoption.

7 CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off (name of officer and date)
Legal including Human Rights Act	The Licensing Authority must formally review its adopted Statement of Principles for the Gambling Act 2005 Policy. Section 349 of the Act requires the authority to review this every three years and keep it under review from time to time. Without an up-to-date Policy in place, this could leave the authority open to legal challenge over the legitimacy of any decisions made.	Jayne Bolas, Practice Area Team Leader (Contentious) and Robin Harris, Senior Lawyer (Contentious) 20.01.17
Finance and other resources	No issues identified	Sharon Degiorgio, Senior Licensing Officer 08.01.17
Staffing Establishment	No issues identified	Sharon Degiorgio, Senior Licensing Officer 08.01.17
Risk Management	No issues identified	Sharon Degiorgio, Senior Licensing Officer 08.01.17
Environment and sustainability	No issues identified	Sharon Degiorgio, Senior Licensing Officer 08.01.17
Community Safety	No issues identified	Sharon Degiorgio, Senior Licensing Officer 08.01.17
Health and Safety	No issues identified	Sharon Degiorgio, Senior Licensing Officer 08.01.17

Health and Wellbeing	No issues identified	Sharon Degiorgio, Senior Licensing Officer 08.01.17
Equalities	The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users. An Equality Impact Assessment has been carried out in considering this policy.	West Kent Equalities Officer 08.01.17

8 REPORT APPENDICES

The following revised documents are to be published with this report and form part of the report:

- Appendix A – Draft Policy, incorporating Local Gambling Risk Assessments and Mandatory, Default and Pool of Model Conditions.
- Appendix B – Summarised feedback table
- Appendix C – Response from Gosschalks (to follow)

9 BACKGROUND PAPERS

- Gambling Commission Guidance to licensing authorities 5th edition, September 2015
<http://www.gamblingcommission.gov.uk/pdf/GLA/GLA.pdf>
 - Existing Statement of Principles
http://www.tunbridgewells.gov.uk/_data/assets/pdf_file/0006/91455/291215_Statement_of_Principles-for-Gambling_2016- interim.pdf
 - Licence Conditions and Codes of Practice for Operators
[Licence Conditions and Codes of Practice \(LCCP\)](#),
 - Appendix B: Guidance on Undertaking Local Gambling Risk Assessments
<http://democracy.tunbridgewells.gov.uk/documents/g3582/Public%20reports%20pack%2006th-Sep-2016%2018.00%20Licensing%20Committee.pdf?T=10>
 - Appendix C: Mandatory, Default and Tunbridge Wells Borough Council's Pool of Model Conditions for Gambling Premises Licences
<http://democracy.tunbridgewells.gov.uk/documents/g3582/Public%20reports%20pack%2006th-Sep-2016%2018.00%20Licensing%20Committee.pdf?T=10>
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