

Is the final decision on the recommendations in this report to be made at this meeting?

**YES****Revised Statement of Licensing Principles for Gambling Act 2005 Policy**

|                                   |  |
|-----------------------------------|--|
| <b>Final Decision-Maker</b>       | Licensing Committee  |
| <b>Portfolio Holder</b>           | Councillor Dr Ronen Basu                                   |
| <b>Lead Director</b>              | Paul Taylor,<br>Director of Change and Communities         |
| <b>Head of Service</b>            | Gary Stevenson,<br>Head of Housing, Health and Environment |
| <b>Lead Officer/Report Author</b> | Sharon Degiorgio, Senior Licensing Officer                 |
| <b>Classification</b>             | Non-exempt   |
| <b>Wards affected</b>             | All  |

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

1. To undertake a 6 week consultation on the proposed revised Tunbridge Wells Borough Council's Statement of Licensing Principles for Gambling Act 2005 Policy, drafted in accordance with the Gambling Commissions Guidance issued to licensing authorities 5<sup>th</sup> edition. Appendix A
2. To receive a further report after the conclusion of the consultation and consider any comments prior to formally recommending a revised Statement of Licensing Principles for the Gambling Act 2005 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**

| <b>Meeting</b>      | <b>Date</b>                         |
|---------------------|-------------------------------------|
| Licensing Committee | 4 September 2018<br>4 December 2018 |
| Full Council        | 12 December 2018                    |

# Revised Statement of Licensing Principles for Gambling Act 2005 Policy

## 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 Authority's current Statement of Licensing Principles for Gambling Act 2005 Policy was approved by Full Council and adopted on 22 February 2017 to come into force 23 February 2017 following the publication of the revised Gambling Commission Guidance to Local Authorities 5<sup>th</sup> edition.
  - 1.3 The Gambling Act 2005 requires the Council to undertake a full review every three years irrespective of whether any amendments have been made within this period to ensure a new or refreshed Statement of Principles for Gambling is in place to fully meet our statutory obligations. The reviewed policy will be required to be effective for a three year period from 31 January 2019 to 30 January 2022
  - 1.4 As part of this review process we have considered our Local Risk and Local Area Profiles.
  - 1.5 The Council has a duty to consult on the proposed draft Policy and Officers are seeking approval to conduct the consultation.
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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) 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 Operators 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** This revised draft Policy set out in Appendix A provides additional clarity in some areas; and the amendments to the previous statement are highlighted using track changes. There are no changes to the intent or direction of the Policy, which sets out how the Council seeks to regulate gambling activities under its control and provide a framework for consistent decision making.

**2.7** The Council is only required to consult on the track changed amendments, and as we have previously undertaken an interim review of the Policy and made changes, a shorter consultation period is appropriate.

**2.8** There is no requirement upon Licensing Authorities to prepare a Local Area Profile, but the Gambling Commission is encouraging authorities along this route. By doing this Operators will need to take this into account when preparing their own Local Risk Assessments, which is a mandatory requirement. Although the Council has not had any previous issues in this area, the Template Risk Assessment which we already have in place enables us to provide a clear framework to assist us in determining the suitability of future applications.

**2.9** The Statement has amended the section on the Council's expectations around operators local risk assessments. This will enable the Council to regulate local gambling more effectively by being able to hold operators to account if their assessments fall short of the Council's expectations.

**2.10** To assist this review further, enquiries have been made to ascertain whether any specific issues relating to problem gambling could be identified within the Borough by obtaining data sets from the Tunbridge Wells Borough Council's Community Safety Unit (CSU), and GamCare.

The attached link <http://www.ukcrimestats.com/Constituency/65660> summarises the crime statistics for the Borough, none of which can be identified specifically to Gambling.

In addition data provided from GamCare for the Borough of Tunbridge Wells to specifically identify any cases relating to problem gambling are set out at Appendix B. GamCare is an independent charity responsible for providing the first level of support through an increasing range of services for people identified as having gambling issues.

### Summary information

| Year                 | Cases reported by CSU linked to Gambling | Cases reported by GamCare linked to Gambling |
|----------------------|--|--|
| 2015/16              | Not available                            | 10   |
| 2016/17              | Not available                            | 40   |
| 2018/19<br>(to date) | 0  | 10   |

**2.11** It is therefore proposed that Members approve the draft revised at Appendix A for consultation and authorise officers to commence a six week public consultation from 7 September 2018 with those interested parties set out in Appendix C. Officers will report back to the Committee the outcome of the consultation, reflecting any comments received. Members will then consider any responses and determine whether they need to be reflected in the Policy before making a recommendation to Full Council for consideration of adoption.

**2.12** There are a number of draft proposals being considered by Government including the role of Fixed Odds Betting Terminals (FOBTs) and the reduction in the maximum stake for FOBTs will be reduced from £100 to £2. (No change in prize level has been proposed, so it will remain at £500). This reduction will be delivered through secondary legislation in due course.

In the event that the draft proposal is enacted, this would automatically be incorporated into this document

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## 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. The Authority is required to have an up to date policy.

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## 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.
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## 5 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 No consultation currently undertaken on the revised draft document. Members are requested to agree the proposed way forward to undertake a six week public consultation and to consider a future report later in the year following its conclusion.
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## 6 NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 If Members agree that the proposed way forward and to consult on the revised policy, a future report will be considered following public consultation.
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## 7 CROSS-CUTTING ISSUES AND IMPLICATIONS

| Issue                                    | Implications   | Sign-off<br>(name of officer<br>and date)                   |
|--|--|---|
| <b>Legal</b> 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. | Robin Harris,<br>Senior Lawyer<br>(Contentious)<br>16.08.18 |
| <b>Finance</b> and other resources       | Conducting the consultation does not give rise to any financial implications.  | Sharon Degiorgio<br>02.08.18                                |
| <b>Staffing</b><br><b>Establishment</b>  | No issues identified   | Sharon Degiorgio<br>02.08.18                                |
| <b>Risk Management</b>                   | No issues identified   | Sharon Degiorgio<br>02.08.18                                |
| <b>Environment</b><br>and sustainability | No issues identified   | Sharon Degiorgio<br>02.08.18                                |
| <b>Community</b><br><b>Safety</b>        | No issues identified   | Terry Hughes<br>CSU manager<br>06.08.18                     |

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|-----------------------------|---|---|
| <b>Health and Safety</b>    | No issues identified  | Sharon Degiorgio<br>02.08.18                |
| <b>Health and Wellbeing</b> | No issues identified  | Sharon Degiorgio<br>02.08.18                |
| <b>Equalities</b>           | <p>Decision-makers are reminded of the requirement under the Public Sector Equality Duty (s149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper could directly impact on end users.</p> <p>With regards to the second aim of the duty to advance equality of opportunity, the Gambling Act Policy seeks to take steps to meet the needs of different age groups by protecting children from being harmed or exploited by gambling. Applicants for premises licenses will be required to submit a risk assessment which includes considerations in relation to vulnerable persons, which could include people with protected characteristics.</p> | West Kent<br>Equalities Officer<br>06.08.18 |

## 8 REPORT APPENDICES

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

- Appendix A: Revised Draft Policy with track changes
- Appendix B: GamCare statistical data specifically relating to the Borough of Tunbridge Wells – Caller Data 2015/2016, 2016/2017 & 2017/2018.
- Appendix C: GamCare statistical data specifically relating to the Borough of Tunbridge Wells – Treatment Data 2015/2016, 2016/2017 & 2017/2018.

## 9 BACKGROUND PAPERS

- Gambling Commission Guidance to licensing authorities 5<sup>th</sup> edition, September 2015  
<http://www.gamblingcommission.gov.uk/PDF/GLA5.pdf>
- Licence Conditions and Codes of Practice for Operators  
<http://www.gamblingcommission.gov.uk/PDF/LCCP/Licence-conditions-and-codes-of-practice-April-2018.pdf>

- Gambling participation and problem gambling – Gambling Commission data  
<http://www.gamblingcommission.gov.uk/news-action-and-statistics/Statistics-and-research/Levels-of-participation-and-problem-gambling/Gambling-participation-and-problem-gambling.aspx>
- Crime Statistics for Tunbridge Wells  
<http://www.ukcrimestats.com/Constituency/65660>
- Gamcare Annual Statistics 2016/17  
[http://www.gamcare.org.uk/sites/default/files/file\\_attach/GamCare%20Annual%20Statistics%202016-17%20FINAL.pdf](http://www.gamcare.org.uk/sites/default/files/file_attach/GamCare%20Annual%20Statistics%202016-17%20FINAL.pdf)
- Gamcare Strategy 2018/21  
[http://www.gamcare.org.uk/sites/default/files/file\\_attach/GamCare%20Strategy%202018-2021%20%28web%29\\_0.pdf](http://www.gamcare.org.uk/sites/default/files/file_attach/GamCare%20Strategy%202018-2021%20%28web%29_0.pdf)
- LGA Gambling Regulation Councillor Handbook – updated Guidance 2018  
<https://www.local.gov.uk/gambling-regulation-councillor-handbook-england-and-wales>