

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

NO**Revised Statement of Licensing Principles for Gambling Act 2005 Policy**

Final Decision-Maker	Licensing Committee
Portfolio Holder	Councillor Dr Ronen Basu, Sustainability Portfolio Holder
Lead Director	Paul Taylor, Director of Change and Communities
Head of Service	Gary Stevenson, Head of Housing, Health & Environment
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 6 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 with effect from 31 January 2019.

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	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 5th 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 fully meet our statutory obligations. The reviewed policy will be required to be effective for a three years period from 31 January 2019 to 30 January 2022.
 - 1.4 This report sets out the responses received from the consultation exercise. We have considered the consultees responses and amended where appropriate.
-

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 <https://www.gamblingcommission.gov.uk/PDF/LCCP/Licence-conditions-and-codes-of-practice.pdf> 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 This revised draft Policy set out in Appendix A provides additional clarity in some areas. 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 provides a framework for consistent decision making.
- 2.7 The consultation was undertaken for a period of six weeks from 7 September until 19 October 2018, based on the draft policy set out in the background papers.
- 2.8 The authority received four responses which are summarised together with the officer's comments in Appendix B.
- 2.9 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. Members are required to consider the outcome of the consultation and determine whether any further adjustments are required to be 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.	Robin Harris, Senior Lawyer (Contentious) 08.11.18
Finance and other resources	No issues identified	Sharon Degiorgio, Senior Licensing Officer 05.11.18
Staffing Establishment	No issues identified	Sharon Degiorgio, Senior Licensing Officer 05.11.18
Risk Management	No issues identified	Sharon Degiorgio, Senior Licensing Officer 05.11.18
Environment and sustainability	No issues identified	Sharon Degiorgio, Senior

		Licensing Officer 05.11.18
Community Safety	No issues identified	Sharon Degiorgio, Senior Licensing Officer 05.11.18
Health and Safety	No issues identified	Sharon Degiorgio, Senior Licensing Officer 05.11.18
Health and Wellbeing	No issues identified	Sharon Degiorgio, Senior Licensing Officer 05.11.18
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 05.11.18

8 REPORT APPENDICES

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

- Appendix A – Revised Statement of Licensing Principles Gambling Act 2005 Policy January 2019 -2022.
- Appendix B – Summarised Feedback Table

9 BACKGROUND PAPERS

- Gambling Commission Guidance to licensing authorities 5th edition, September 2015, updated September 2016
<https://www.gamblingcommission.gov.uk/PDF/GLA5.pdf>
- Existing Statement of Principles
http://www.tunbridgewells.gov.uk/_data/assets/pdf_file/0006/91455/03.05.17-Ratified-Statement-of-Principles-Gambling-Act-2005.pdf
- Licence Conditions and Codes of Practice for Operators
<https://www.gamblingcommission.gov.uk/PDF/LCCP/Licence-conditions-and-codes-of-practice.pdf>
- Licensing Committee Report 4 September 2018 with track changes.
<http://democracy.tunbridgewells.gov.uk/meetings/documents/g4246/Public%20report%20pack%2004th-Sep-2018%2018.00%20Licensing%20Committee.pdf?T=10>

<http://democracy.tunbridgewells.gov.uk/meetings/documents/b50011704/Additional%20papers%20for%20information%2004th-Sep-2018%2018.00%20Licensing%20Committee.pdf?T=9>