

# CHESHIRE EAST COUNCIL

## Cabinet Member for Communities

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**Date of Meeting:** 20 July 2015  
**Report of:** Miss Kim Evans – Licensing Team Leader  
**Subject/Title:** Revised Statement of Gambling Principles  
**Portfolio Holder:** Cllr Les Gilbert

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### **1.0 Report Summary**

- 1.1 The Gambling Act 2005 requires Local Authorities to prepare and publish a statement of the principles that they propose to apply when exercising their functions under the Act during the three year period to which the statement applies.
- 1.2 The Council is required to review its existing statement of principles and publish the revised version by no later than 31st January 2016. In preparing a revised statement the Council must undertake a consultation exercise with stakeholders.

### **2.0 Recommendation**

- 2.1 That the Cabinet considers the content of the revised statement (appendix 1) and make any appropriate changes prior to formal consultation.

### **3.0 Reasons for Recommendations**

- 3.1 The statement of principles under the Gambling Act 2005 forms part of the Council's Policy Framework. Therefore, in accordance with the Budget and Policy Framework Procedure Rules, the responsibility for drawing up the initial proposals rests with the Executive. For this reason, the Licensing Committee is requested to recommend the draft statement to the relevant Cabinet Member so that the required statutory consultation process may commence.

### **4.0 Wards Affected**

- 4.1 All

### **5.0 Local Ward Members**

- 5.1 All

## **6.0 Policy Implications**

- 6.1 The decision within 2.0 seeks approval for a draft policy so that consultation can take place with relevant stakeholders.

## **7.0 Financial Implications**

- 7.1 The Council will need to consult with those identified by the relevant legislation. This will require approximately 75 letters being sent to licence holders and gambling organisations. Previously the Council has advertised the consultation in several local papers. Due to the expense of this a decision has been taken to place notices in the Council's principal offices and on our website.

- 7.2 These costs can be met within existing budgetary constraints.

## **8.0 Legal Implications**

- 8.1 By virtue of section 349 of the Gambling Act 2005 ('the 2005 Act') the Licensing Authority is required to prepare and publish a statement of the principles that it proposes to apply in exercising its functions under the 2005 Act during the three year period to which the policy applies. Statements must usually be revised and published in respect of every period of three years, that being 2016 – 2019.

- 8.2 The Statement of Principles forms part of the Council's Policy Framework. As such, the final decision to approve a statement of principles or a revision of the statement rests with full Council. In addition, in developing a revised statement of principles, the Authority must comply with its Budget and Policy Framework Procedure Rules (as set out within the Constitution).

- 8.3 Sub-section 349(3) of the 2005 Act prescribes that in preparing a revision of a statement a licensing authority is required to consult:

- (a) the chief officer of police for the authority's area;
- (b) one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
- (c) one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the 2005 Act.

- 8.4 The drafting of the Statement of Principles must take into account the requirements of The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 ('the 2006 Regulations'). In addition, the Gambling Commission's Guidance to Licensing Authorities ('the Guidance') prescribes that in determining its policy, the Licensing Authority must have regard to the Guidance and give appropriate weight to the views of those it has consulted.

- 8.5 Regulation 7 of the 2006 Regulations prescribes that before a revised statement comes into effect the authority must advertise the publication of the

statement by way of a notice published on the authority's website and in one or more of the following places: (i) a local newspaper circulating in the area covered by the statement; (ii) a local newsletter, circular or similar document circulating in the area covered by the statement; (iii) a public notice board in or near the principal office of the authority; (iv) a public notice board on the premises of public libraries in the area covered by the statement.

- 8.6 Consideration has been given to the application of the 'public sector equality duty' (as per section 149 Equality Act 2010) to the decision requested within paragraph 2.0 above. It is suggested that the decision requested would have a neutral impact in terms of its impact on those individuals with 'protected characteristics.'

## **9.0 Risk Management**

- 9.1 Compliance with the provisions of section 349 of the 2005 Act and the 2006 Regulations, having regard to the provisions of the Guidance, compliance with the Budget & Police Framework Procedure Rules, and giving appropriate weight and consideration to any consultation responses received will mitigate the risk of a successful challenge of the final Statement of Principles.

## **10.0 Background**

- 10.1 As set out above, the Gambling Act 2005 requires licensing authorities to prepare and publish a statement of principles that it proposes to apply in exercising its functions under the Act. The current statement of principles was approved in 2013 and took into account the requirements of the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 in terms of its form and content.
- 10.2 The draft statement, a copy of which is attached as Appendix 1, incorporates some minor amendments, changes in legislation or practices (such as specific sections on the splitting of premises and primary gambling activity) and takes into account the request from the Gambling Commission that Licensing Authorities prepare a local area assessment. The Licensing Section has not received any comments about the drafting of the current statement from stakeholders in the period since it came into force. Similarly, the Council has not been challenged on the current Statement.
- 10.3 The draft Statement was considered by the Council's Licensing Committee on the 8<sup>th</sup> June 2015 who approved the content. Following consideration of the Cabinet Member a consultation period will take place. During this time the Statement will also be considered by the Council's Communities Overview and Scrutiny Committee. Following the end of the consultation phase the matter will be referred back to Licensing Committee for consideration of any consultation responses. The matter will then be referred to Cabinet for consideration prior to a final draft being recommended to full Council.
- 10.4 The Council's current Statement of Gambling Principles is set out at appendix 2 and is provided for the purposes of comparison with the revised statement.

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report author:

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