

# **CHESHIRE EAST COUNCIL**

## **Sustainable Communities Scrutiny Committee**

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**Date of Meeting:** 25<sup>th</sup> October 2012  
**Report of:** Mr J Hopper, Licensing Officer  
**Subject/Title:** Revised Statement of Gambling Principles

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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 31<sup>st</sup> January 2013. In preparing a revised statement the Council must undertake a consultation exercise with stakeholders.
- 1.3 The purpose of this report is to an opportunity for the Overview and Scrutiny process to pass comment on the comment of the Statement of Principles in accordance with the Council's Budget and Policy Framework Procedure Rules

### **2.0 Recommendation**

- 2.1 That the Committee resolves to support the content of the Statement of Principles as set out in appendix A.

### **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 Overview and Scrutiny process should consider the content of the Statement.
- 3.2 In addition to this any comments or views express by an Overview and Scrutiny Committee should be considered by the Cabinet prior to a final proposal being made to the Council.

### **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 following consultation having taken place with relevant stakeholders.

## **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

7.1 No financial implications have been identified.

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

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. Whilst statements must usually be revised and published in respect of every period of three years, by virtue of the Local Government (Structural Changes) (Transitional Arrangements) (No 2) Regulations 2008 the statement of principles approved in 2009 was satisfied the requirements of the Gambling Act 2005 as regards the three year period commencing on 31<sup>st</sup> January 2010. For this reason the Council's statement must be reviewed and republished by no later than 31<sup>st</sup> January 2013.

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 It is suggested that (a) compliance with the provisions of section 349 of the 2005 Act and the 2006 Regulations; (b) having regard to the provisions of the Guidance; (c) compliance with the Budget & Police Framework Procedure Rules; and (d) 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 and Options**

- 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 2009 and was based on the policies then in force in the areas of the three predecessor district Councils 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, but in essence remains substantially the same as the original statement. 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, i.e. 1<sup>st</sup> April 2009. Similarly, the Council has not been challenged on the current Statement.
- 10.3 Following a review of the revised Statement of Gambling Principles on the 16<sup>th</sup> July 2012 and a subsequent decision of the Cabinet Member for Safer & Stronger Communities the Council has been consulting upon the revised Statement in accordance with the statutory requirements set out in the Legal Implications section of this report. The full list of consultees is set out within the Statement.
- 10.4 The period of the consultation ran from \*\*\*\* to 19<sup>th</sup> October 2012. No comments on the content have been received. In total three responses have

been received confirming that the organisations they represent have no comments to make.

## **11.0 Access to Information**

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

Appendix A - Draft Revised Statement of Gambling Principles

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