

# CHESHIRE EAST COUNCIL

## Licensing Committee

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**Date of Meeting:** 16<sup>th</sup> November 2015  
**Report of:** Miss Kim Evans – Licensing Team Leader  
**Subject/Title:** Revised Statement of Gambling Principles  
**Portfolio Holder:** Cllr Les Gilbert – Communities

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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.
- 1.3 The Licensing Committee previously considered the draft statement (appendix 1) on the 8<sup>th</sup> June 2015 prior to consideration by the relevant Cabinet Member and public consultation.

### 2.0 Recommendation

- 2.1 That the Committee considers the responses to the consultation detailed at appendix 2 (Responsible Authorities and Public) and appendix 3 (responses on behalf of the licensed trade) and make any changes to the current draft policy document that they deem appropriate.
- 2.2 That the Committee approves a final draft of the statement for the consideration of the Council's Cabinet prior to its presentation to Full Council.
- 2.3 If Members are minded to change aspects of the statement in light of the responses, consideration should also be given to re-consulting on those changes if they are deemed a significant change.

### 3.0 Reasons for Recommendations

- 3.1 The statement of principles under the Gambling Act 2005 forms part of the Council's Policy Framework and it is necessary for it to be considered by this Committee.

### 4.0 Wards Affected

4.1 All

## **5.0 Local Ward Members**

5.1 All

## **6.0 Policy Implications**

6.1 The Council is required to revise and adopt a Statement of Gambling Principles every three years.

## **7.0 Financial Implications**

7.1 None identified

## **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.
- 10.3 The revised statement was considered by this Committee on the 8th June 2015 who approved the content. The revised policy was considered by the Cabinet Member for Communities on the 20<sup>th</sup> July 2015. The Committee and Cabinet Member approved the content and confirmed it was appropriate to be consulted upon.
- 10.4 The consultation was conducted between 24<sup>th</sup> August 2015 and 21<sup>st</sup> September 2015. This consultation was conducted by:
1. Placing a Notice confirming the consultation on the Council's website
  2. Placing a Notice confirming the consultation at the Council's principal offices (ie Westfields, Macclesfield Town Hall and Delamere House).
  3. Notification to all premises licence holders
  4. Notification to all Responsible Authorities

5. Notification to the Town and Parish Councils
6. Notification to various gambling support groups and charities
7. Notification to the Council's Public Health and Safeguarding Teams

- 10.5 The statement was also considered by the Council's Communities Overview and Scrutiny Committee on the 24<sup>th</sup> September 2015 who confirmed their support for the content.
- 10.6 The Council is required to discharge its responsibilities under the Act with a view to promoting the three licensing objectives:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
  - Ensuring that gambling is conducted in a fair and open way,
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 10.7 Within the last three years, the period the Council's current statement has principles has been in operation, there has been no significant increase or decrease in the number of premises requiring a gaming permit or a premises licence.
- 10.8 Section 153 of the Gambling Act 2005 provides that, in exercising its functions under Part 8 of the Act, a licensing authority shall aim to permit the use of premises for gambling in so far as it thinks it is:
- i. In accordance with any relevant code of practice under section 24 of the Gambling Act 2005 (i.e. the Licence conditions and codes of practice prepared by the Gambling Commission)
  - ii. In accordance with any relevant guidance issued by the Commission under section 25 of the Gambling Act 2005
  - iii. Reasonably consistent with the Licensing Objectives, and
  - iv. In accordance with the Licensing Authority's Statement of Licensing Principles.
- 10.9 Section 153 also makes it clear that in deciding whether or not to grant a licence, a Licensing Authority must not have regard to the expected demand for gambling premises that are the subject of the application
- 10.10 Similarly, section 210 (1) of the Gambling Act 2003 states that 'in making a decision in respect of an application...a licensing authority should not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with law relating to planning or building'.

- 10.11 The Licensing Authority can only consider matters within the scope of the Gambling Act, Guidance and associated Codes of Practice and cannot become involved in the moral issues relating to gambling.
- 10.12 Whilst there is a presumption in favour of permitting the relevant premises to be used for gambling, the licensing authority may not do so unless satisfied that such use would be in accordance with this Guidance, any relevant Commission code of practice, its own statement of licensing policy, and the licensing objectives.
- 10.13 In reviewing the statement of principles we have considered (amongst other things):
- The promotion of the three licensing objectives
  - The guidance issued under Section 25 of the Gambling Act 2005 and the update guidance that was prepared by the Gambling Commission and subject to consultation of its own during this review
  - The Council's current Statement of Gambling Principles 2012 (we have said 2013 earlier – is this just an approval date?)
  - Equality legislation and requirements
- 10.14 It is necessary for this Committee to carefully consider the responses received to the consultation and make appropriate and relevant changes and approve a final draft for the consideration of Cabinet and Full Council.

## **11.0 Access to Information**

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

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