

Public Agenda Item: **Yes**

Title: **Gambling Act 2005**  
**'Statement of Principles 2019', (*Gambling Policy*)**

Wards  
Affected: **All**

To: **Licensing Committee** On: **22 November 2018**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **Yes**

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## 1. **What we are trying to achieve**

- 1.1 To inform Members of representations received relating to the draft 'Gambling Policy', (*hereinafter referred to as the 'Statement of Principles 2019'*), which Torbay Council is required to review and publish every three years.
- 1.2 To seek Members approval that the Statement of Principles 2019 be referred to Full Council on 5<sup>th</sup> December 2018, to be recommended for adoption with effect from 30<sup>th</sup> January 2019.

## 2. **Recommendation(s) for decision**

- 2.1 That the Licensing Committee supports the proposed Statement of Principles 2019 as set out in in Appendix 1 to the submitted report.
- 2.2 That Council be recommended to:
  - i) approve the Statement of Principles 2019 (*Gambling Policy*),
  - ii) that the Statement of Principles 2019 take effect from 30 January 2019.

### **3. Key points and reasons for recommendations**

- 3.1 Section 349 (1) of the Gambling Act 2005 (hereinafter referred to as 'the Act') requires that a Licensing Authority must prepare and publish a Statement of Principles that they propose to apply in exercising their functions under the Act. It further requires that it should be reviewed and re-published every three years.
- 3.2 The draft revised Policy for 2019, was agreed in principle by Licensing Committee on 19<sup>th</sup> July 2018. There followed a statutory consultation, which took place between 21<sup>st</sup> August 2018 and 16<sup>th</sup> October 2018.
- 3.3 Following consultation, one representation was received, which was a partial response, answering three questions where they related to Unlicensed Family Entertainment Centres (UFEC's). With regard to the questions answered, the response was in full support of the changes made.
- 3.4 Given that there are no representations against the proposed Statement of Principles 2019, there are no changes recommended to the draft that was agreed for consultation by Licensing Committee in July of this year. The proposed statement of Principles for 2019 is attached at **Appendix 1**.
- 3.5 Torbay Council has a statutory responsibility under the Act to complete this process of review of the Policy by 3rd January 2019 and for implementation of the final document on or before 30th January 2019, that being the date specified by the Secretary of State, as the 'relevant appointed date' under the Act.

**For more detailed information on this proposal please refer to Annex 1.**

**Steve Cox**  
**Environmental Health Manager (Commercial)**

## **Annex 1 – Supporting information to Report**

### **A1. Introduction and history**

- A1.1 Section 349 (1) of the Act requires that a Licensing Authority must prepare and publish a Statement of Principles that they propose to apply in exercising their functions under the Act. It further requires that it should be reviewed and re-published every three years.
- A1.2 The last 'Statement of Principles' was published to take effect by the 30<sup>th</sup> January 2016; that being the date specified by the Secretary of State as the 'relevant appointed date' under the Act.
- A1.3 The draft revised Policy for 2019, was agreed in principle by Licensing Committee on 19<sup>th</sup> July 2018. There followed a statutory consultation, which took place between 21<sup>st</sup> August 2018 and 16<sup>th</sup> October 2018.
- A1.4 Following consultation, there was one response received. This was despite promoting the consultation on social media as well as direct contact with key consultees. Whilst the response answered only three of the consultation questions, where these related to UFEC's it was in strong agreement with the revisions made to the Policy.
- A1.5 Additionally, whilst they did not submit an official consultation response, the review of the Statement of Principles was conducted in consultation with the Gambling Commission. The Gambling Commission provided guidance and support during the review of the document with a view to legal compliance and best practice and were in full support of the draft proposals prior to consultation. For this reason they made no official response.
- A1.6 The Gambling Commission have, in particular picked out paragraphs 19 and 20 as examples of a pragmatic and clear approach to dealing with division of and access between various premises.
- A1.7 In view of the positive feedback from the Gambling Commission, the strong support for the amendments in the one consultation response received and the lack of any other comments, the draft document is proposed to remain unaltered from that which was agreed in principle by Members of the Licensing Committee in July of this year.
- A1.7 Approval of the finalised 'Statement of Principles 2019' is a Full Council decision and a report on the draft 'Statement of Principles 2019' will be presented to Full Council for consideration on 5<sup>th</sup> December 2018.
- A1.8 Torbay Council has a statutory responsibility under the Act to complete this process of review of the Policy by 3<sup>rd</sup> January 2019 and for implementation of the final document on or before 30<sup>th</sup> January 2019, that being the date specified by the Secretary of State, as the 'relevant appointed date' under the Act.

## **A2. Risk assessment of preferred option**

### **A2.1 Outline of significant key risks**

The risks are more associated with any failure to review and re-publish this Statement of Principles in time as the effect would be that the Council would have no Policy in place, which effectively would prevent lawful discharge of functions under the Act, which may lead to legal challenge against the Council and financial penalties being incurred.

The risks associated with agreeing the Statement of Principles are minimum as it has been reviewed in line with regulatory requirements, which included full consultation and no negative comments have been received.

## **A3. Options**

A3.1 There is no viable option other than for the Statement of Principles 2019 to be recommended to full Council for adoption in its current form. The document remains unchanged from that agreed by this Committee in July this year and no response has been received that is in conflict with any aspect of the proposed alterations.

Whilst Members are at liberty to make alterations to the Policy, these would need to be justified in the absence of representations against the Policy. The absence of a reasonable justification, may result in a Judicial Review.

## **A4. Summary of resource implications**

A4.1 There are no significant additional resource implications that will derive from the Council discharging its statutory obligations, under the Act. The publication of this revised Statement of Principles does not alter this in any way.

## **A5. What impact will there be on equalities, environmental sustainability and crime and disorder?**

A5.1 There are no equalities or environmental sustainability implications. These matters were all considered in the Impact Assessment conducted by Central Government prior to enacting the Primary Legislation in January 2007.

Two of the Licensing Objectives under the Act are “Preventing Gambling being a source of Crime and Disorder” and “Protecting Children and Vulnerable Adults”, therefore, the work conducted under this Policy should have a positive impact in this regard, for example, the amendments relating to UFEC’s will assist the child protection objective.

## **A6. Consultation and Customer Focus**

A6.1 A full consultation took place between 21<sup>st</sup> August 2018 and 16<sup>th</sup> October 2018.

Section 349 (3) of the Act specifies those persons and authorities that must be consulted. These are:

- i) The Chief Officer of Police

- ii) Gambling business operators and persons representing the interests of such operators
- iii) Persons who appear to represent the interests of those likely to be affected by gambling

This Policy will affect every operator of, or applicant in respect of a gambling business. It lays out their roles and responsibilities under the Act and identifies how the Licensing Authority will carry out its own functions in this regard. Therefore, all business operators and any representatives of such operators were consulted.

Gambling premises are frequented by members of the public and it is essential that their interests are considered. Targeted consultation therefore took place with key gambling support groups and charities as well as being published on the Council website in order to enable general comment. In support of the full public aspect of the consultation, messages were placed on social media to advise the public of the consultation, affording opportunity for them to comment.

The Police and other Responsible Authorities were also consulted.

#### **A7. Are there any implications for other Business Units?**

A7.1 There are no significant implications for other business units relating to this report.

### **Appendices**

Appendix 1 Draft 'Statement of Principles 2019'

**Documents available in members' rooms:** None

### **Background Papers:**

The following resources and documents were used to compile this report:

- 1 Gambling Act 2005.
- 2 Gambling Commission Guidance to Licensing Authorities 5th Edition issued September 2015 (Parts 17, 18 and 19 updated September 2016)
- 3 Licence Conditions and Codes of Practice, issued January 2018.
- 4 Torbay Council Gambling Policy 2016.