

FULL COUNCIL

16th DECEMBER 2015

REPORT OF HEAD OF REGULATORY SERVICES

GAMBLING ACT 2005 STATEMENT OF PRINCIPLES

1.0 PURPOSE OF REPORT

- 1.1 To invite members to consider and approve revisions to the Gambling Act 2005 Statement of Principles.

2.0 RECOMMENDATIONS

- 2.1 **To recommend that the Gambling Act 2005 Statement of Principles at Appendix A be approved.**
- 2.2 **That authority is delegated to the Head of Regulatory Services to consider any representations received within the remainder of the consultation period.**

3.0 KEY ISSUES

- 3.1 Under the Gambling Act 2005 the Council is responsible for preparing a Statement of Principles setting out how it exercises its various responsibilities in terms of issuing premises licences, liaising with the Gambling Commission (a national co-regulator), carrying out its enforcement functions and issuing permits for small-scale gambling such as machines in alcohol-licensed premises and registering small society lotteries. The Council has the legal responsibility to review its Statement of Principles, under the Gambling Act 2005, every three years dating from January 2007
- 3.2 The Act places a duty on the Council to develop a Statement of Principles that promotes 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, and
 - Protecting children and other vulnerable persons from being harmed or exploited.

- 3.3 If approved this Statement of Principles would take effect from 31st January 2016.

4.0 POLICY AND CORPORATE IMPLICATIONS

- 4.1 If this Statement of Principles is approved all Gambling Act 2005 applications and related matters will be dealt with in the future with reference to this document.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

- 5.1 There are no financial or other resource implications.

6.0 LEGAL IMPLICATIONS/POWERS

6.1 This policy has been written in accordance with the Council's responsibilities under the Gambling Act 2005. The Policy format is governed by the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006

7.0 COMMUNITY SAFETY

7.1 This Statement of Principles has been written with Crime and Disorder and suitability of location in mind.

8.0 EQUALITIES

8.1 An Equalities Impact Assessment for Gambling Act 2005 is in place.

9.0 RISKS

9.1 All risks associated with Gambling and the promotion of the Licensing Objectives have been addressed within this Statement as far as it is reasonable to do so.

10.0 CLIMATE CHANGE

10.1 There are no matters relating to climate change.

11.0 CONSULTATION

11.1 Consultation has taken place in accordance with the Gambling Act 2005.

11.2 The consultation carries a 12 week period which has been advertised as between 2nd October 2015 and 31st December 2015. Consultees were requested, where possible to provide any responses or comments prior to the 4 December 2015 in order to assist with timetables associated with the presentation of responses to Council; they were advised that comments received after this date but within the 12 week period will still be taken in to consideration prior to adoption of the final policy.

11.3 Comments received are as follows:

Comment Received	Response of Head of Regulatory Services
<p><u>Gosschalk Solicitors</u></p> <p>Gosschalk's act for the Association of British Bookmakers (ABB) and have provided a 6 page letter outlining their general views on certain aspects of the Gambling Act 2005. In relation to Melton Borough Council's draft Statement of Principles they state that:</p> <p>Specific Policy Comments The ABB welcomes the Licensing Authority's light touch approach to its draft statement of principles which is clear and concise. Perhaps the only suggestion relates to the use of the word "promote" in paragraph 1.1 of Part 1. It is suggested that the Council will "promote the licensing objectives" when the correct position is</p>	<p>The "Guidance to Licensing Authorities, 5th edition" published by the Gambling Commission, September 2015 states:</p> <p><i>"Part 6: Statement of licensing policy</i></p> <p><i>Introduction</i> <i>6.1 S.349 of the Act 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, commonly known as a statement of policy. The statement of policy forms the licensing authority's mandate for managing local gambling provision and sets out how the licensing authority views the local risk environment and therefore its expectations in relation to operators with premises in the locality.</i></p>

<p>outlined in paragraph 1.4 where it is stated that “Licensing Authorities must have regard to the licensing objectives.”</p> <p><u>The use of the word “promote” is imported from Licensing Act 2003 and consideration may be given to the use of a different word.</u></p>	<p>Fundamental principles</p> <p>6.7 Licensing authorities’ statements of policy should begin by stating the three licensing objectives (s.1 of the Act), which the policy will promote:</p> <ul style="list-style-type: none"> • 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 <p>In order to follow the Gambling Commission's guidance it is considered that the word "promote" be retained.</p>
<p><u>Coral Racing Limited</u></p> <p>Coral Racing Limited are supportive of the document. It again notes that the Board when considering applications are still required to ‘aim to permit gambling’ where this is ‘reasonably consistent with the licensing objectives’. <u>Please note that when judging applications, the Council should not take into account of any moral objections to gambling and most Council’s include a sentence to this effect.</u></p> <p>Coral Racing Limited recognise the requirement to supply risk assessments with future applications and variations (requirement is from 6th April 2016) following the consultation completion and <i>are pleased to see this information included.</i></p> <p>A number of Council’s have created long lists of locations which by inclusion are required to be risk assessed & often with strict templates to be completed. Coral are of the opinion that as there is no evidence that the proximity of such locations causes harm to the licensing objectives, it is best left to the operators to provide their own risk assessments. <i>We are pleased to see that Melton Borough Council has not progressed this route</i> and naturally, if our risk assessments do not meet the level desired by the Council, we would adjust to suit.</p>	<p>The proposed statement of principles at Appendix A states:</p> <p>2.1 General Principles</p> <p><i>This licensing authority is aware that, in making decisions about premises licences, it should aim to permit the use of premises for gambling in so far as it thinks it is:</i></p> <ul style="list-style-type: none"> • In accordance with any relevant code of practice issued by the Gambling Commission • In accordance with any relevant guidance issued by the Gambling Commission • Reasonably consistent with the Licensing Objectives; and • In accordance with this authority's statement of licensing principles. <p>The, Guidance to Licensing Authorities 5th edition, published by the Gambling Commission, September 2015 states:</p> <p>5.34 Licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met, and such objections do not relate to the licensing objectives. An authority’s decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow</p>

	<p><i>gambling premises in an area (with the exception of the casino resolution powers).</i></p> <p>By virtue of the requirement to act in accordance with relevant guidance this point will be taken into consideration when determining applications.</p>
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11.3 It is requested that delegated authority be granted to the Head of Regulatory Services in order to determine any future comments submitted before 31st December 2015.

12.0 WARDS AFFECTED

12.1 All wards.

Contact Officer: Anna Young, Licensing & Compliance Officer

Date: 8 December 2015

Appendices : Appendix A: Proposed Gambling Act 2005 Statement of Principles

Reference : X: Committees