

Report to: Cabinet

Date of Meeting: 7 December 2015

Report Title: Review of Gambling Act Statement of Principles

Report By: Mike Hepworth
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Purpose of Report

1. To inform Cabinet of the results of the recent statutory review of the Council's amended Gambling Act Statement of Principles. The revised policy needs to be adopted by Full Council prior to publication on 26th January 2016.

2. To introduce a "No Casino" resolution for the Borough.

Recommendation(s)

- 1. That Cabinet agrees the updated Gambling Act Statement of Principles and recommends it to Full Council for adoption by the 26th January 2016.**
- 2. To recommend that Full Council should pass a No casino resolution.**

Reasons for Recommendations

There is a statutory requirement for local authorities to fully review their Gambling Statement of Principles at least every 3 years. Failure to do so could result in judicial review proceedings against the authority, and call in to doubt local decisions made under the Gambling Act 2005.

The Act gives powers to licensing authorities to introduce a No casino resolution for their areas, it is a full Council decision and must be revisited and endorsed every 3 years. The decision can be reversed by a full Council decision at anytime if considered appropriate.

Background

1. The Gambling Act 2005 made local authorities responsible for determining applications for local gambling premises licences, temporary occurrences, machine permits and lotteries.
2. This was implemented by local authorities in September 2007. However, it should be noted that the responsibilities are split between local authorities and the Gambling Commission.
3. The Act places a legal duty on both the Commission and licensing authorities to aim to permit gambling, in so far as it is considered to be reasonably consistent with the pursuit of the licensing objectives. The effect of this duty is that both the Commission and licensing authorities must approach their functions in a way that seeks to regulate gambling by using their powers. For example, powers to attach conditions to licences, to moderate its impact on the licensing objectives rather than by starting out to prevent it altogether.
4. The duties assigned to local authorities are somewhat restricted, and relate solely to licensing the actual premises, temporary occurrence notices, individual gaming machines and lotteries. They do not include any matters relating to the National Lottery, or internet based betting services. Such matters are solely the responsibility of the Gambling Commission, as is the licensing of all betting company operators and the determination of applications for personal licences.
5. The three licensing objectives, which guide the way that the Commission and licensing authorities perform their functions and the way that gambling businesses carry on their activities, are:
 - 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.
6. One of the first duties for local authorities was to formulate and consult upon a policy called a "Gambling Act Statement of Principles".

Gambling Act 2005 Statement of Principles

7. This statement of principles must be adopted by the Licensing Authority and kept under review. The policy must be fully reviewed and consulted upon at least every 3 years. The next date for a full review to have been completed and be adopted is the 26th January 2016.
8. The statement of principles has undergone two full reviews since the initial adoption in 2007. On each occasion amendments have been made to reflect changes to the legislation and guidance issued by the Gambling Commission.

9. On each occasion a full consultation has been undertaken with all the relevant persons identified in the Act. A list of consultees is provided in appendix B to the statement of gambling principles (page 54).
10. It has stood the test of time well, and has not been legally challenged. Earlier this year the Council reviewed several licences following test purchasing operations carried out with the Police and the Gambling Commission. The subsequent Committee hearings which involved a large national operator went very well, and didn't expose any flaws in the authority's statement of gambling principles.

Consultation

11. An amended version of the statement of gambling principles has been subject to a 5 week public consultation. It contained very few changes, being mainly general housekeeping. However, a new national requirement to carry out risk assessments in relation to the 3 licensing objectives is also being introduced in April 2016 and is included in the new policy. See section 6.4.2 page 27.
12. There were 4 responses to the consultation and all are attached at appendix 2 to this report. Environmental Health and Trading Standards responded by indicating that they had no adverse comments to make about the amended policy.
13. Corals Bookmakers indicated that they were broadly supportive of the policy document. However, they raised one concern about the wording used in sections 3.5.8. and 3.5.9, about the location of premises licences in relation to establishments such as schools catering for children or vulnerable adults, and that it could be considered as being too prescriptive. They indicated that their research shows no link between betting shops and gambling by children, they do go on to accept that the policy indicates at 3.5.9 that all applications are judged on their merits. On balance we believe the original is fair and we have not changed the document in this respect.
14. Goschalks Solicitors responded acting for the Association of British Bookmakers (ABB). They thanked us for being given the opportunity to comment on the Statement of Principles and made a series of suggestions to clarify areas. The Licensing Manager has advised that he agrees with many of the suggestions they made, and has therefore made a number of amendments to reflect this. The main theme of their comments was that the existing document was a little too prescriptive, and was potentially introducing requirements that are outside the remit of the Statement of Gambling Principles, as set out through the Act and the statutory guidance.
15. Feedback from specialist solicitors acting on behalf of the trade is to be welcomed, and the resulting amendments should make it even less likely that Committee decisions based upon the updated Statement of Gambling Principles will be successfully challenged.

No Casino Resolution

16. The Council has the power to pass a No Casino resolution for the Borough. This did not occur when the original statement of gambling principles was adopted or at the subsequent reviews, as it was decided to leave the option open should

circumstances warrant such a venture. Members have suggested that it is now considered appropriate to make a No Casino Resolution via the Statement of Gambling Principles.

17. The decision to pass such a resolution can only be made by full Council, and once passed it must be published in the Statement of Principles and reviewed every three years. Full Council can choose to reverse this decision at any time.

Policy Implications

18. Equalities Impact Assessments carried out during previous reviews did not identify any scope for discrimination as a result of the statement of gambling principles. From a community cohesiveness perspective, the statement of principles enables the Council to regulate gambling premises whilst safeguarding people using them.
19. Crime and fear of crime are important considerations for the Council. Increased crime and fear of crime could have catastrophic consequences on the regeneration of the town, with entrepreneurs being put off from investing in Hastings. However, this policy helps to minimise the potential for crime and disorder associated with premises licensed for gambling.
20. The Human Rights Act is a relevant consideration for the Environment and Safety Committee when considering applications for gambling premises, and this statement of principles should assist them in balancing the human rights of all concerned.
21. Local people's views are another relevant consideration as they have the right to make formal representations against applications if they feel that the application will not promote 1 or more of the 3 licensing objectives. Again it is suggested that the updated draft policy will help the Licensing Committee to consider such representations objectively, and in a way that balances the rights of all concerned.
22. From an anti-poverty perspective the 3rd licensing objective to protect children and other vulnerable persons from being harmed or exploited by gambling means that there has to be protection for children and vulnerable adults from the effects of harmful gambling. Essentially this means that operating procedures need to be in place that will prevent children and young people from being given access to inappropriate or harmful gambling opportunities. This has been a primary focus for our recent successful enforcement work, and will continue to be so. This work has resulted in some significant improvements to the operating procedures of some gambling premises in Hastings.

Wards Affected

Ashdown, Baird, Braybrooke, Castle, Central St. Leonards, Conquest, Gensing, Hollington, Maze Hill, Old Hastings, Ore, Silverhill, St. Helens, Tressell, West St. Leonards, Wishing Tree

Policy Implications

Please identify if this report contains any implications for the following:

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Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	Yes
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	Yes
Organisational Consequences	No
Local People's Views	Yes
Anti-Poverty	Yes

Additional Information

Appendix One - Draft updated Statement of Gambling Principles

Appendix Two - Responses to the consultation

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