

Report to: Cabinet

Date of Meeting: 5th November 2018

Report Title: Review of Gambling Statement of Principles

Report By: Mike Hepworth Assistant Director Environment and Place.

Purpose of Report

To inform councillors of the results of the recent statutory review of the Council's amended Gambling Act Statement of Principles and seek their approval for Cabinet to recommend that Full Council:-

1. Approves the updated statement of principles for publication by 3rd January 2019; and
2. Reaffirms the existing "No Casino" resolution for the Borough.

Recommendation(s)

- 1. To agree the updated Gambling Act Statement of Principles at appendix B and recommend that Full Council approve it for publication by the 3rd January 2019 in order that it can take effect on the 31st January 2019.**
- 2. To recommend that Full Council should reaffirm the current "No Casino" resolution.**

Reasons for Recommendations

There is a statutory requirement for local authorities to fully review their Gambling Act 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 revised statement needs to be adopted by Full Council prior to publication on 3rd January 2019.

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 published is 3rd January 2019.
8. The statement of principles has undergone three 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. In 2015 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 10 week public consultation. It contained very few changes, being mainly general housekeeping. The national requirement to carry out risk assessments in relation to the 3 licensing objectives that was introduced in April 2016 has been amended and enlarged to make it easier to understand for applicants. In addition information has been included to reflect the ongoing test purchase operations carried out by the licensing authority in conjunction with the Gambling Commission and our intention to continue them.
12. There was 1 detailed response to the consultation and it is attached at Appendix A. Environmental Health and several Councillors also responded by indicating that they had no adverse comments to make about the amended policy.
13. Elizabeth Speed, Group General Counsel for and on behalf of Novomatic UK responded. They are the largest operator of Gambling Premises within the Borough and the largest gaming industry operator in the UK, comprising manufacturing and licensed sites they currently operate over one 5th of all UK Adult Gaming Centres.
14. She thanked us for being given the opportunity to comment on the Statement of Principles and made a series of suggestions seeking to make the document clearer and in some cases to better align it with her understanding of the Act and associated Statutory Guidance. The Licensing Manager has carefully reviewed her feedback and has advised that he agrees with it, and has therefore made a number of amendments to reflect this. The main theme was that the existing document was in some areas too prescriptive, and in others not consistent in its approach to conditions, particularly around access by young persons. For example GPL 9 didn't require the operator to consider requiring 'proof of age' from customers, so we have now added this. The response is attached at Appendix A.
15. Feedback from specialists 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, which happened at the last policy review in 2016. This resolution needs to be revisited at the same time as the adoption of the policy.

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 negative 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

All wards

Implications

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

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	No
Anti-Poverty	Yes

Additional Information

Appendix A Consultation response.

Appendix B Updated and Amended Gambling Statement of Principles.

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