

**Report To:** Cabinet

**Date of Meeting:** 3 April 2023

**Report Title:** Review of the Hastings Borough Council Gambling Act 2005 Statement of Principles

**Report By:** Natasha Tewkesbury, Head of Community & Regulatory Services

**Key Decision:** Yes

**Classification:** Public (Part 1)

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### **Purpose of Report**

To seek approval from Cabinet to agree the updated Statement of Principles as required by the Gambling Act 2005 and agree to recommend the proposal to pass a No Casino resolution to Full Council.

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### **Recommendations**

- 1. Cabinet agree the Gambling Act 2005 Statement of Principles and recommend to Full Council for adoption.**
- 2. Recommend a No Casino resolution to not issue casino premises licences in the borough to Full Council.**

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### **Reasons for Recommendations**

1. It is a statutory requirement for the council to review the Gambling Act Statement of Principles and the No Casino Resolution every three years. Failure to do so could result in judicial review proceedings against the council and call in to doubt the decisions made by the Licensing Committee under the Act.

## Introduction

1. The Gambling Act 2005 (“the Act”) requires Licensing Authorities (the council) to prepare and publish for a three-year period, a Statement of Principles for their area which apply when exercising its functions under the Act.
2. The current Statement of Principles was approved by Full Council after review and public consultation and came into effect on 31 January 2019. As a result of the COVID pandemic, the review was delayed due to the additional burden and resources being diverted to COVID response work. An updated policy is attached at **Appendix A**.
3. The Act places a duty on the Licensing Authority to develop a Statement of Principles that promotes the three licensing objectives:
  - a. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
  - b. Ensuring that gambling is conducted in a fair and open way
  - c. Protecting children and other vulnerable persons from being harmed or exploited by gambling.
4. The Act requires Licensing Authorities to review the Statement of Principles every three years.
5. The Gambling Act 2005 (the Act) allows a licensing authority to pass a No Casino Resolution and to specify the date on which the resolution takes effect. This decision must be taken by Full Council and must be published in the Policy. The resolution must specify the date it comes into effect, and it may also be revoked by passing a further resolution, subject to further consultation.
6. On the 20 December 2018, the council as the Licensing Authority agreed to pass a resolution not to issue casino licences (A No Casino Resolution) and agreed amendments to the Council’s Gambling policy (the Policy). The resolution came into effect on 31 January 2019, as it cannot take effect until 4 weeks after the date of the council decision.
7. The decision to pass the resolution was based on the council’s priorities and commitments to improving the wellbeing of people in Hastings and St Leonards. The decision was based on:
  - a. addressing poverty and the impact of poverty on its communities.
  - b. research which suggests that casinos are associated with higher bankruptcy rates in their localities and the increased likelihood of a person becoming a problem gambler,
  - c. the links between problem gambling and the negative impact on communities; and
  - d. the promotion of the licensing objective “*Protecting children and other vulnerable persons from being harmed or exploited by gambling*”.
8. A ‘No Casino’ resolution needs to be passed every 3 years to remain in place. The current resolution expired on 31 January 2022 and the council needs to pass a new resolution at Full Council on 26 April 2023. This will come into effect 4 weeks later on the 24 May 2023.

## No Casino Resolution

9. The Gambling Act 2005 (the Act) allows a licensing authority to pass a No Casino Resolution and to specify the date on which the resolution takes effect. This decision must be taken by Full Council and must be published in the Policy.
10. The resolution must specify the date it comes into effect, and it may also be revoked by passing a further resolution, subject to further consultation.
11. A No Casino Resolution will only affect new casinos. It will not have any effect on casino premises that were originally licensed under the Gaming Act 1968, casino premises licences issued before the resolution takes effect. There are currently no Casino licences granted in Hastings.

### **Consideration when passing a No Casino Resolution**

12. In making the decision to pass a No Casino Resolution, the council may take into account any principle or matter in addition to the licensing objectives. The licensing objectives in respect of the Gambling Act 2005 are:
  - a. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
  - b. Ensuring that gambling is conducted in a fair and open way
  - c. Protecting children and other vulnerable persons from being harmed or exploited by gambling

### **Current Considerations for a No Casino Resolution**

13. Tackling poverty remains a key priority of the council as Hastings continues to have an above average level of deprivation. The cost of living crisis has exacerbated the economic issues of the town and many more households are experiencing poverty.
14. According to the latest Index of Multiple Deprivation (IMD2019), relative multiple deprivation has risen in East Sussex since 2015. Hastings ranks as the most deprived lower tier local authority in the Southeast, Transport for South East (TfSE) area and South East Local Enterprise Partnership (SE LEP) by almost all measures. Nationally, it ranks as 13th most deprived in terms of rank of average rank, out of 317 lower tier local authorities, and in terms of local concentration, it is 16th.
15. The majority of the county's deprived neighbourhoods are located in Hastings, where 16 out of 53 neighbourhoods (30%) rank in the most deprived decile nationally, with two among the most deprived 1% of LSOAs, in Baird (Hastings 005A, rank 147 out of 32,844) and Tressell (Hastings 005D, rank 186) wards. This is the same proportion as in 2015. The full details of that report are attached at Appendix B and provides the evidence for the rationale behind a No Casino resolution.
16. Previous research has shown that disadvantaged social groups who experience poverty, unemployment, dependence on welfare and lower levels of education and household income are more likely to suffer the adverse consequences of increased gambling. Problem gambling can lead to debt, divorce, crime, mental health issues and also suicide, all of which can have a negative impact on communities, particularly those already experiencing the stresses of life on low income.
17. The licensing objective 3; "Protecting children and other vulnerable persons from being harmed or exploited by gambling" remains relevant in this case. The term "vulnerable

persons” is not defined but the statutory guidance produced by the Gambling Commission states that for regulatory purposes it must be assumed that this group includes people who gamble more than they want to, people who gamble beyond their means and people who are unable to make informed or balanced decisions about gambling.

## Consultation Process

18. The existing Policy was amended to ensure readability and removal of excess jargon making it understandable for the wider community. There were no significant changes to the policy. The amended Statement of Principles is included at Appendix A and was published for a six-week consultation period starting on the 21 October 2022.
19. Consultation was undertaken with existing licence holders, representatives of persons carrying on gambling businesses, statutory bodies including the Chief Officer for Sussex Police, representatives of interested parties and borough councillors, representatives of those in the Gambling Trade, those likely to be affected by the authority’s functions, and public consultation on the council’s website. [www.hastings.gov.uk](http://www.hastings.gov.uk)
20. The consultation period ended on 2 December 2022. We did not receive any responses, therefore no concerns have been raised about the amended Statement of Principles and the No Casino Resolution. These should be formally agreed at Cabinet and then Full Council for adoption.

## Legal Considerations

21. Under section 349 of the Gambling Act 2005 a licensing authority shall before each successive period of three years prepare a Statement of the Principles which they will apply in exercising their functions under the Act during that period. The same section states that the Licensing Authority shall consult with the Chief Officer of Police, those who represent the interests of people carrying on gambling businesses in the authority’s area and those who appear to the authority to represent the interests of people who are likely to be affected by the exercise of the authority’s functions.
22. The Licensing Authority should also take account of The Gambling Act 2005 (Licensing Authority Policy Statement) Regulations 2006 which states the legal rules for the form of the Statement and the procedure to be followed in preparing and publishing a Statement.
23. A No Casino resolution is a non- executive function and cannot be delegated therefore it has to be passed by Full Council. The resolution must be published in the Policy before it takes effect.

## Policy implications

24. Crime and Fear of Crime (Section 17). The Council’s Gambling Act 2005 Statement of Principles is clearly highly relevant to the Council’s statutory duty to consider crime and the fear of crime. An effective Licensing Statement Policy should contribute to reducing crime and fear of crime.

## Risk management implications

25. In accordance with the Council’s Risk Management Strategy, consideration has been given to the potential risks associated with the recommendations set out in this report. A failure by the Council to review and adopt a Statement of Principles contravenes Section 349 Gambling Act 2005 and renders it impossible for the Gambling Sector within the Borough to be properly administered and enforced.

### Local People’s Views

26. The statutory consultation process provided an opportunity for local people to comment on the amended policy and statement of principles and this was completed.

### Equalities and Community Cohesiveness

27. Equalities Impact Assessments carried out during previous reviews of this policy did not identify any scope for discrimination as a result of the policy. As no substantive changes are proposed to the policy, there will be no change from an equalities impact perspective. From a community cohesiveness perspective, a No Casino resolution should help to continue to promote the council’s priority in relation to reducing poverty.

### Human Rights Act

28. Human rights considerations must be taken into account fully in balancing licensing issues, in particular, article 1 of the first protocol. Article 1 relates to the protection of property and the peaceful enjoyment of possessions and property. Holding a premises licence would be considered a possession. These are qualified rights and can be deprived of “in the public interest”. Interference is permissible if what is done, has its basis in law, and

- a. Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim
- b. Is proportionate to the aims being pursued; and,
- c. Is related to the prevention of crime; or, the protection of public order or health.

### Options

29. The consultation has not raised any concerns about the proposed updated Statement of Principles. The options are to:

- a. Approve the updated Statement of Principles and choose to propose a No Casino resolution

Or

- b. Approve the updated Statement of Principles and choose not to propose a No Casino Resolution.

30. Based primarily on the data provided in this report, Option 1 should be implemented. If Cabinet agrees, the Statement of Principles and No Casino resolution can be updated and then reported to Full Council for adoption.

### Timetable of Next Steps

1. Please include a list of key actions and the scheduled dates for these:

Action	Key milestone	Due date (provisional)	Responsible
Agreed at Cabinet		3/4/23	Natasha

			Tewkesbury
Adopted at Full Council		26/4/23	Natasha Tewkesbury

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## Wards Affected

All Wards

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## Policy Implications

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

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

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## Additional Information

Appendix A. Proposed Revised Gambling Act 2005 Statement of Principles.  
Appendix B. East Sussex Indices of Deprivation 2019

## Background papers

[Gambling Commission Guidance to Licensing Authorities](#)  
[East Sussex Indices of Deprivation 2019](#)

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## Officer to Contact

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