

Is the final decision on the recommendations in this report to be made at this meeting?

No

Revised Statement of Principles for Gambling Act 2005 Policy

Final Decision-Maker	Full Council
Head of Service	John Littlemore
Lead Officer/Report Author	Lorraine Neale
Classification	Non-exempt
Wards affected	All

This report makes the following recommendations to the final decision-maker:

1. To undertake a 12 week consultation on the proposed revised Maidstone Borough Council's Statement of Licensing Principles / Gambling Policy drafted in accordance with the Gambling Commissions 5th edition Guidance, Appendix A
2. To receive a further report after the conclusion of the consultation and consider any comments prior to formally recommending a revised Statement of Licensing Principles for the Gambling Act 2005 to Council for adoption.

This report relates to the following corporate priorities:

- Great People
- Great Place
Great Opportunity

Timetable

Meeting	Date
Licensing Committee (To consider consultation responses)	26 January 2017
Full Council	1 March 2017

Revised Statement of Licensing Principles for Gambling Act 2005

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 Section 349 of the Gambling Act 2005 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 during the three year period to which the policy applies. Section 155 states that this function may not be delegated from Council and so this Committee will recommend a proposed document to Council following consultation.
- 1.2 The current policy took effect in January 2016 after an initial 'light touch' review as the publication of the 5th edition of Gambling Commission Guidance was published too late to be included in the draft. Members agreed that a more detailed review of the policy should be undertaken later in 2016 and be brought back to Committee for consideration prior to going out to public consultation. This paper sets out the proposed revised version for consideration, Appendix A.
- 1.3 In accordance with the 5th Edition of the Gambling Commission Guidance to Local Authorities the focus of our latest review is concentrated on Local Risk Assessments and Local Area Profiles.

2. INTRODUCTION AND BACKGROUND

- 2.1 Maidstone Borough Council is the Licensing Authority under the provisions of the Gambling Act 2005 (the Act).
- 2.2 The Council is required to produce a Statement of Licensing Principles for the Gambling Act 2005 to demonstrate how applications received under the Act will be dealt with.
- 2.3 Section 153 of the Act requires that when exercising functions under the Act the Licensing Authority **shall aim to permit** the use of premises for gambling in so far as the authority thinks it is in accordance with
 - (a) any relevant code of practice s.24;
 - (b) any relevant guidance issued by the Gambling Commission under s.25;
 - (c) is reasonably consistent with the licensing objectives (subject to a and b above), and;
 - (d) the statement published by the authority under s.349 (statement of licensing policy) (subjects to paragraphs a to c above).
- 2.4 The Gambling Commission (the Commission) has introduced new provisions in its social responsibility code within the [Licence Conditions and Codes of Practice \(LCCP\)](#), which require gambling operators to assess the local risks to

the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks. This change in national policy is intended to provide a well evidenced and transparent approach to considering and implementing measures to address the risks associated with gambling. In making these risk assessments licensees must take account of the Licensing Authority's Statement of Licensing Principles.

2.5 The gambling objectives are:

- i) preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime
- ii) ensuring that gambling is conducted in a fair and open way and
- iii) protecting children and other vulnerable persons from being harmed or exploited by gambling.

2.6 Members may recall considering an interim report on the draft 5th edition Gambling Commission Guidance consultation in September 2015 and to consider the impact on the Council's then current policy. Although the guidance was only draft, it was determined that the Council would still undertake a consultation initiative, prior to any finalisation of the guidance due to the statutory time limits involved.

2.7 Due to the guidance only being in draft form at the time of the initial consultation and with regards to the responses, it was determined that as an interim arrangement the Authority undertake a 'light touch' review of our existing policy and undertake a more detailed review in 2016 to fully meet our statutory obligations after publication of the final version of Guidance.

2.8 This proposed revised Policy (Appendix A) reflects a more detailed review and has incorporated additional elements in respect of the Risk Assessments and Local Area Profiling. There is no requirement upon Licensing Authorities to prepare a Local Area Profile, but the Gambling Commission is encouraging authorities along this route. By doing this Operators will need to take this into account when preparing their own Local Risk Assessments, which is a mandatory requirement. Although the Council has not had any previous issues in this area, the template Risk Assessment will enable us to provide a clear framework to assist us in determining the suitability of future applications. (Appendix B)

2.9 In addition, as part of the Policy revision we have taken the opportunity to produce a range of model Conditions for Gambling Premises Licences which can be adapted to suit where necessary, and includes both the Mandatory and Default conditions. (Appendix C)

2.10 It is therefore proposed that Members approve the proposed revision at Appendix A and authorise officers to commence a public consultation (week commencing 6th October 2016) with those interested parties set out in the statement of Licensing Principles at Appendix 5 with a view to bringing a further report back to Committee reflecting on any comments received. Due to the significant changes to the policy, it is proposed to undertake a 12 week public

consultation. Members will then consider any responses and determine whether they need to be reflected in the Policy before referral to Full Council for consideration of adoption.

3 AVAILABLE OPTIONS

- 3.1** It is a statutory requirement for the Council to have a current statement of licensing principles in place covering the principles for its functions under the Act. The Authority is required to have an up to date policy and therefore should incorporate the 5th edition of the Gambling Commissions Guidance (Option 1)
- 3.2** To retain the current policy, however this would not fulfil a previous decision undertaken by the Committee to carry out a further review and consider the 5th edition of the Gambling Commissions Guidance. (Option 2)
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4 PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1** Option 1: A comprehensive updated policy will improve the consistency in delivering the service and will better inform applicants of the licensing process in an open and transparent way, enabling the Authority to continue to have a 'fit for purpose' policy in place.
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5 CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1** No consultation currently undertaken on the revised draft document. Members are requested to agree the proposed way forward to undertake a 12 week public consultation with all parties listed at Appendix 5 of the Statement of Licensing Principles and to consider a future report later in the year following its conclusion.
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6 NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1** If Members agree that the proposed way forward and to consult on the revised policy, a future report will be considered following public consultation.
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7 CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	No issues identified	[Head of Service or Manager]
Risk Management	No issues identified	[Head of Service or

		Manager]
Financial	No issues identified	[Section 151 Officer & Finance Team]
Staffing	No issues identified	[Head of Service]
Legal	The Licensing Authority must formally review its adopted Statement of Principles for the Gambling Act 2005 Policy. Section 349 of the Act requires the authority to review this every three years and keep it under review from time to time. Without an up-to-date Policy in place, this could leave the authority open to legal challenge over the legitimacy of any decisions made.	[Legal Team]
Equality Impact Needs Assessment	None identified at this stage.	[Policy & Information Manager]
Environmental/Sustainable Development	The Licensing Authority must formally review its adopted Statement of Principles for the Gambling Act 2005 Policy. Section 349 of the Act requires the authority to review this every three years and keep it under review from time to time. Without an up-to-date Policy in place, this could leave the authority open to legal challenge over the legitimacy of any decisions made.	[Head of Service or Manager]
Community Safety	No issues identified	[Head of Service or Manager]
Human Rights Act	No issues identified	[Head of Service or Manager]
Procurement	No issues identified	[Head of Service & Section 151 Officer]
Asset Management	No issues identified	[Head of Service & Manager]

8 REPORT APPENDICES –

The following documents are to be published with this report and form part of the report:

- Appendix A: Revised Draft Policy
 - Appendix B: Guidance on Undertaking Local Gambling Risk Assessments
 - Appendix C: Mandatory, Default and Maidstone Borough Council's Pool of Model Conditions for Gambling Premises Licences
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9 BACKGROUND PAPERS

- Gambling Commission Guidance to licensing authorities 5th edition, September 2015
<http://www.gamblingcommission.gov.uk/pdf/GLA/GLA.pdf>
- Existing Statement of Principles
http://www.maidstone.gov.uk/_data/assets/pdf_file/0019/27631/Gambling-Licensing-Policy-June-2016.pdf
- Licence Conditions and Codes of Practice for Operators
[Licence Conditions and Codes of Practice \(LCCP\)](#),