

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Phil Adams - Executive Public Protection Manager

To: Committee of the Licensing Authority – 10 February 2016

(Author: Donna Hall – Licensing & Business Support Manager)

Subject: Revised Statement of Principles (Gambling Act 2005)

Purpose: To give consideration to the draft revised 'Statement of Principles' and refer to full Council for adoption

Recommendations:

- 1) That the Committee consider the responses received following consultation.
- 2) That the Committee approve the revised Statement of Principles
- 3) That the Committee recommend to full Council for approval the revised Statement of Principles in order for South Holland District Council to act as the licensing authority and discharge its statutory duties under the Gambling Act 2005.

1.0 BACKGROUND

- 1.1 The Gambling Act 2005 came fully into effect on 1 September 2007 creating a new system of licensing and regulation for commercial gambling in this country. Local Authorities have regulatory responsibilities for licensing certain gambling activities. The Act also created an independent non-departmental public body the Gambling Commission sponsored by the Department for Culture, Media and Sport.
- 1.2 Under Section 349 of the Gambling Act 2005 a licensing authority is required to prepare and publish a Statement of Principles that it proposes to apply in exercising its functions under this Act before each successive period of three years. The current Statement of Principles was both published and came into effect in April 2013. The current policy is attached at **Appendix 1**.
- 1.3 To assist local authorities the Act requires the Gambling Commission to issue statutory guidance to Licensing Authorities on the manner in which they are to exercise their functions under the Act and the principles to be applied by them in exercising those functions. Licensing Authorities are required to take into account such guidance. The statutory guidance is designed to ensure the spread of best practice and consistency of approach in decision making by local authorities, whilst not preventing them from properly exercising the discretion they have to take account of appropriate and relevant local issues.
- 1.4 A review of the current Statement of Principles has been completed and a revised draft prepared. This draft is based on the 5th edition (September 2015) of the Guidance issued to licensing authorities published by the Gambling Commission. This statement has updated the previous one and is in line with the national advice given. The proposed draft revised Statement of Principles is attached at **Appendix 2**. The revisions to the

Statement of Principles, which are highlighted in bold include legislative changes and provision of updated Responsible Authority contact details.

- 1.5 Final approval of the Statement of Principles must be made by full Council. The Statement of Principles must then be published for 31 days, before 31 March 2016 and will come into effect 1 April 2016.
 - 1.6 The draft revised Statement of Principles was under consultation from 21 December 2015 to 17 January 2016. The consultation was carried out in accordance with guidance issued by the Gambling Commission.
 - 1.7 There is a requirement under section 349(3) Gambling Act 2005 for the licensing authority to consult the following bodies on the Statement of Principles and subsequent revision to it:-
 - The Chief Officer of Police for the authority's area;
 - one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
 - one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act.
 - 1.8 A list of consultees is attached at **Appendix 3**. The draft statement was also placed on the South Holland District Council website.
 - 1.9 Two responses to the draft Statement of Principles were received within the consultation period. These are attached at **Appendix 4**.
 - 1.10 In determining its policy statement the licensing authority must give appropriate weight to the views of those it has consulted. In deciding what weight to give the factors to be taken into account include:
 - who is making the representations, the nature of their interest and their expertise
 - relevance of the factors to the licensing objectives
 - how many other people have expressed the same or similar views
 - how far the representations relate to matters that the licensing authority should be including in its policy statement.
 - 1.11 Reasons for the decisions made following consultation should be given. As a reminder the licensing objectives under the Gambling Act 2005 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 and protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.0 **OPTIONS**
- 2.1 The options for the Committee of the Licensing Authority are limited as the process is legislative and dictated by the Gambling Act 2005. The Council has no discretion as to making the Statement of Principles, although there is some discretion as to the content of the statement.

The Committee may:

1. Consider the responses received following consultation;
2. Consider the draft revised Statement of Principles; and
3. Refer the Statement of Principles to Full Council for approval; or
4. Do nothing.

3.0 REASONS FOR RECOMMENDATIONS

3.1 To ensure South Holland District Council acting as the Licensing Authority can discharge its statutory duties under the Gambling Act 2005.

4.0 EXPECTED BENEFITS

4.1 Statutory compliance with the Gambling Act 2005.

5.0 IMPLICATIONS

5.1 Carbon Footprint / Environmental Issues

5.1.1 It is the opinion of the Report Author that there are no implications.

5.2 Constitution & Legal

5.2.1 It is a statutory requirement that the Licensing Authority produces a Statement of Principles that it proposes to apply in exercising its functions under the Gambling Act 2005 and that it reviews it at least every three years. If the Authority does not produce a revised statement of policy and related procedures within the statutory timescale, there is a risk that the Authority will not be in a position to process applications, leaving the Authority open to challenge by persons wishing to make such applications. Furthermore, the Authority will also have failed to comply with its legal obligations under the Act and could face challenge.

5.3 Contracts

5.3.1 It is the opinion of the Report Author that there are no implications.

5.4 Corporate Priorities

5.4.1 To develop safer, stronger, healthier and more independent communities whilst protecting the most vulnerable.

5.4.2 To have pride in South Holland by supporting the district and residents to develop and thrive.

5.4.3 To provide the right services, at the right time and in the right way.

5.4.4 To encourage the local economy to be vibrant with continued growth.

5.5 **Crime and Disorder**

5.5.1 Lincolnshire Police as a Responsible Authority under the legislation were consulted on the policy review but made no comment.

5.6 **Equality and Diversity / Human Rights**

5.6.1 These are contained within the report.

5.7 **Financial**

5.7.1 It is the opinion of the Report Author that there are no implications.

5.8 **Health and Wellbeing**

5.8.1 It is the opinion of the Report Author that there are no implications.

5.9 **Risk Management**

5.9.1 It is a statutory requirement that the Licensing Authority produces a Statement of Principles that it proposes to apply in exercising its functions under the Gambling Act 2005 and that it reviews it at least every three years. If the Authority does not produce a revised Statement of Policy and related procedures within the statutory timescale, there is a risk that the Authority will not be in a position to process applications, leaving the Authority open to challenge by persons wishing to make such applications. Furthermore, the Authority will also have failed to comply with its legal obligations under the Act and could face challenge.

5.10 **Safeguarding**

5.10.1 Safeguarding has been considered within the review of the Statement of Principles as the protection of children and vulnerable people is a licensing objective under the Gambling Act 2005.

5.11 **Staffing**

5.11.1 It is the opinion of the Report Author that there are no implications.

5.12 **Stakeholders / Consultation / Timescales**

5.12.1 It is the opinion of the Report Author that there are no implications. Consultation has been carried out as indicated in para 1.8 of this report and in accordance with statutory requirements. In addition to the website, 54 named organisations were consulted directly and 2 responses were received within the timescale.

6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 All

Background papers:- Gambling Commission – Guidance to Licensing Authorities 5th edition

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Exempt Decision: No

Appendices attached to this report:

Appendix 1	Current Statement of Principles
Appendix 2	Draft revised Statement of Principles
Appendix 3	List of consultees
Appendix 4	Responses received