

SOUTH HAMS DISTRICT COUNCIL

NAME OF COMMITTEE	Licensing Committee
DATE	8 November 2012
REPORT TITLE	Three-Yearly Review of Gambling Statement of Licensing Principles
Report of	Business Support Manager
WARDS AFFECTED	All

Summary of report:

To seek Members' approval of the proposed triennial 'Statement of Licensing Principles' for the period 2013 – 2016 and to request Members' recommendation of the Statement to Full Council on 13 December 2012.

RECOMMENDATIONS:

1. That the Licensing Committee **RECOMMENDS** to Full Council at the meeting on 13 December 2012 the following:-
 - a) To nominate in writing the 'Children and Young Peoples Services' (formerly the 'Local Safeguarding Children Board') as the body competent to advise the authority about the protection of children from harm issues (Section 157(h) Gambling Act 2005);
 - b) To approve the proposed triennial 'Statement of Principles' as amended for the period 31 January 2013 to 30 January 2016;
 - c) That the Monitoring Officer in liaison with the Licensing Chairman again be granted approval to make any minor amendments to the Constitution or Statement of Principles arising from the Council's licensing responsibilities under the Gambling Act 2005.

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1. BACKGROUND

- 1.1. The Council's Licensing Authority has responsibilities under the Gambling Act 2005 (the "Act") to issue premises licences, registrations, various types of permits and temporary permissions in respect of premises where it is proposed that gambling take place.
- 1.2. Licensing Authorities are required to publish a statement of the principles that it proposes to apply in exercising its functions under the Act during the three-year period to which the Policy relates. This Council fully adopted the initial three yearly Gambling 'Statement of Principles' in November 2006 and it became operative two months later, the Statement was reviewed and republished again in 2009. This third review of the Policy must be adopted prior to January 2013.
- 1.3. Not all betting is dealt with by District Councils, for example the Financial Services Authority and the National Lottery Commission will, for the time being, continue to regulate spread betting and the National Lottery respectively. The Gambling Commission will be responsible for granting operating and personal licences for commercial gambling (such as casinos and bingo halls) and to personnel working in the industry. District Councils will issue the Premises Licences and permits for betting shops, bingo halls and for gambling machines etc.
- 1.4. The Act contains three licensing objectives which underpin the functions of Licensing Authorities. These 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; and
 - c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.5. In determining its Policy, the Authority must have regard to Guidance issued by the Gambling Commission under Section 25 of the Act, and give appropriate weight to representations made within the consultation period.
- 1.6. The draft Policy has been prepared in consultation with the Devon Licensing Officer's Group, and takes account of advice issued by the Local Government Association and the Revised Guidance to Local Authorities 4th Edition, issued by the Gambling Commission in September 2012.

2. ISSUES FOR CONSIDERATION

- 2.1. Consultation on a draft document took place between 18 July and 10 October 2012 and a working group of the Licensing Committee has considered the responses and where thought appropriate have amended the draft Statement accordingly. The responses and amendments are detailed in **Appendix A**.
- 2.2. Licensing Authorities are required to consult and publish their 'Statement of Principles' in respect of each three year period and before determining the Statement, Licensing Authorities must first consult with certain persons or bodies in accordance with Section 349 of the said Act, namely:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- 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 the Gambling Act 2005.

2.3 In addition to the persons and bodies above, this authority consulted with:-

- Children and Young People's Services
- Citizens Advice Bureau
- Community Safety Department
- Dartmouth Business Forum
- Devon and Somerset Fire and Rescue Service
- Devon and Cornwall Constabulary – South Hams area
- Environmental Health
- Gamblers Anonymous
- Gambling Commission
- Gamcare
- Ivybridge Chamber of Commerce
- Kingsbridge and Salcombe Chamber of Commerce
- Local businesses and their representatives
- Local faith group
- Mencap
- Modbury and District Business Forum
- NSPCC
- Primary Care Trust
- Representatives of existing licence-holders
- Totnes and District Chamber of Trade
- Town and Parish Councillors

2.4 The draft Statement of Principles consulted on this year was substantially the same as that consulted on in 2009 and 2006. When consulting, the Licensing Department primarily asked consultees for their views about the third licensing objective (paragraph 1.4 above) the 'protecting children and other vulnerable persons from being harmed or exploited by gambling', which may include any sector of the public in the district whom consultees considered to be vulnerable. In addition, any particular locations within the district that consultees considered undesirable for a betting shop or other gambling venue to be situated.

2.5 The current Statement of Principles for 2010-2013 and the original consultation responses for the 2013-2016 Statement are included within the background documents and are available upon request. As mentioned, a summary of the consultation responses have been incorporated into a spreadsheet together with the observations and suggested amendments to the draft made by the Licensing Committee working group (**Appendix A**).

2.6 The suggested amendments have been provisionally incorporated into the revised draft 2013-2016 Statement, which is also attached at **Appendix B**.

- 2.7 At the meeting of the Licensing Committee on 8 November 2012, Members and other persons present will have a final opportunity to make any further amendments before the Licensing Committee is asked to recommend the approval of the draft to Council.
- 2.8 The Gambling Commission issued new Guidance towards the end of the consultation period, in September 2012. Any changes (in light of the Commission's advice) have been incorporated within the final draft of the Council's Policy.
- 2.9 Members should be aware that the 'Local Safeguarding Children Board' in Totnes has been renamed as 'Children and Young Peoples Services'. They have been the responsible consultee for this authority under the present Statement of Principles / Gambling Act 2005 and Members may wish to nominate them again for the next three years (they have indicated their willingness if so nominated).

3. ADOPTION PROCEDURE

- 3.1 Legislation prescribes that Council is empowered to adopt the Draft Statement of Principles. Adoption can not be delegated to the Licensing Committee.
- 3.2 The following timetable is proposed in respect of the consultation and adoption of the Statement of Principles.

Action	Date
Revised Statement of Principles published and distributed for consultation	18 July 2012
Consultation concludes	10 October 2012
Licensing Committee approve revised Statement of Principles, based on consultation responses received by that date and recommend to Council for adoption	8 November 2012
Revised Statement of Principles approved by Council	13 December 2012
Statement of Principles published (at the latest)	03 January 2013
Statement of Principles comes into effect	31 January 2013

4. LEGAL IMPLICATIONS

- 4.1 Legislation requires the Statement to take effect from 31 January 2013, but to be published and in place 4 weeks before.
- 4.2 Before publishing the revised Policy, the Licensing Authority is required to publish a notice of its intention to publish a statement or revision on its website and in/on one or more of the following places:
- A local newspaper circulating in the area covered by the statement;
 - A local newsletter, circular, or similar document circulating in the area covered by the statement;
 - A public notice board in or near the principal office of the authority;
 - A public notice board on the premises of public libraries in the area covered by the statement.

4.3 The Executive Function Regulations have been amended (S.I. 2006 No. 886) to ensure that the 'Statement of Principles' (policy statement) and any 'no casino' resolution (Section 166 Gambling Act 2005) are approved by Full Council rather than the Executive. The Council resolved in 2006 not to make a 'no casino' resolution and that decision is still in place today.

5. FINANCIAL IMPLICATIONS

5.1 The associated preparation and publication costs will be met in full from Gambling Act 2005 applications and annual fees income. Therefore, there are no financial implications to the Council from this report.

6. RISK MANAGEMENT

The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

7. OTHER CONSIDERATIONS

Corporate priorities engaged:	Community Life, Environment & Economy
Statutory powers:	Gambling Act 2005 SI No. 636: The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006
Considerations of equality and human rights:	Compliance with the Human Rights Act 1998
Biodiversity considerations:	None
Sustainability considerations:	None
Crime and disorder implications:	Preventing gambling from being a source of crime or disorder, being associated with crime and disorder, or being used to support crime is one of the licensing objectives underpinning the Gambling Act 2005.
Background papers:	<ul style="list-style-type: none"> • Gambling Act 2005 & associated relevant Regulations • Guidance issued by the Gambling Commission under the Gambling Act 2005 • South Hams District Council's Statement of Principles, which expires January 2013 • Consultation replies, summary and recommendation of the Licensing Committee
Appendices attached:	Appendix A – Summary of Consultation Responses Appendix B – Draft Statement of Principles for 2013-2016 incorporating suggested amendments.

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Policy not adopted	<p>Failure to produce a licensing policy statement in accordance with the Gambling Act 2005 and its accompanying Regulations is a breach of statutory duty and will render Council powerless to make decisions or exercise the licensing objectives in its locality.</p> <p>Not adopting Policy could leave Council open to criticism and legal challenge.</p>	4	3	12	↔	<p>Twelve week consultation period.</p> <p>Wider consultation than that required.</p> <p>Licensing Committee formed a Working Group to consider consultation responses, and giving weight to the comments by amending the Statement or not where appropriate.</p> <p>Full Council adopts Statement of Principles at meeting on 13 December 2012.</p>	Graham Munson
2	The Statement of Licensing Policy is not equality compliant.	Duty on Council when considering applications or enforcement action to comply with Human Rights Act 1998.	3	2	6	↔	Equality Impact Assessment carried out prior to publication.	Graham Munson
3	Opportunity to set out Council's position regards licensing within the District.	Review ensures the Council, acting as the Licensing Authority, is doing all it can to address the licensing objectives.	3	4	12	↔	Revised Statement of Principles will take account of updated Government Guidance	Graham Munson