

MID SUFFOLK DISTRICT COUNCIL

COMMITTEE: Licensing Act 2003 Committee	REPORT NUMBER: MLR/18/2
FROM: Cabinet Member for Economy	DATE OF MEETING: 3 AUGUST 2018
OFFICER: Lee Carvell – Open for Business Corporate Manager David Price – Licensing Officer	KEY DECISION REF NO. N/A

GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES STATUTORY THREE-YEARLY REVISION AND SIMULTANEOUS FEE REVIEW

1. PURPOSE OF REPORT

- 1.1 This report refers to policy setting under the Gambling Act 2005. Since January 2007 local licensing authorities have been responsible for functions under the Gambling Act 2005, including issuing of licences and permits for gambling/gaming premises and associated matters.
- 1.2 Section 349 of the 2005 Act requires each licensing authority to prepare and publish a statement of the higher-level principles it will apply when dispensing its various gambling functions. The 'Statement of Principles' must by law be reviewed and re-published every three years or sooner if so required. In 2018 the Authority is due to revisit the statement that has been in effect since January 2016, and this report seeks the approval of a suitably revised version in order that a statutory consultation period may then commence on its content.

2. OPTIONS CONSIDERED

- 2.1 Not applicable, Statutory consultation of a policy document.

3. RECOMMENDATIONS
3.1 That the draft revision Gambling Act 2005 'Statement of Principles' document, attached as Appendix A be approved. Further that the relevant officers proceed with the commencement of a period of statutory consultation in accordance with Gambling Act 2005 legislation and regulations.
3.2 That the table of fees attached as Appendix C for Gambling Act 2005 functions be adopted to take effect from 31 January 2019.
REASON FOR DECISION
Statutory requirement to review and readopt the Council's Gambling Policy.

4. KEY INFORMATION

- 4.1 The Licensing Committee established under section 6 of the Licensing Act 2003 is also responsible for dealing with applications under the Gambling Act 2005. Some of these functions are delegated to a sub-committee or officers, but some functions may not be delegated. These exceptions are matters for Full Council and include any resolution by the Licensing Authority not to issue casino premises licences and final approval of the three year 'Statement of Principles' document.
- 4.2 The 'Statement of Principles' must contain certain information as required by regulation. The statement must also have regard to guidance issued under section 25 of the Act by the Gambling Commission (a regulatory body independent of Central Government), and take into account the views expressed in any consultation responses from statutory consultees - including local communities and responsible authorities.
- 4.3 The redrafted statement, attached as Appendix A to this report, contains amendments from the 2016 published version, these revisions have been collated in a summary document and is attached to this report as Appendix B. The Gambling Commission revised national guidance document to Licensing Authorities (fifth edition) published in September 2015 (as amended in September 2016), has influenced some of the revised draft content when formulating the local 'Statement of Principles' revision.
- 4.4 Generally a licensing authority must have due regard to both its 'Statement of Principles', the national guidance, as well as the licensing objectives and any codes of practice issued by the Gambling Commission, when undertaking its gambling licensing functions.
- 4.5 The legislation requires the Licensing Authority to consult widely upon its draft 'Statement of Principles' document with stakeholders, before finalising and publishing the document in January 2019 (as set by order of the Secretary of State). The fifth statement shall take effect for a three-year period from 31 January 2019 through to 31 January 2022 (although the statement may be revised sooner if necessary).
- 4.6 Once the consultation period has been completed, any responses will be collated and the 'Statement of Principles' may be revised in the light of representations/comments made. Any revised document will then be brought back before the Licensing Committee for further consideration prior to the document being recommended on to full Council for adoption.
- 4.7 Once the document has been adopted it will be published on the Council website and made widely available, to take effect from January 2019. It will then become a primary point of reference for Committee Members, officers, applicants and other responsible/interested parties.
- 4.8 Based on an officer review of gambling activity over the past 3 year period, the fee table attached as Appendix C (representing the maxima which may be charged by regulation for the various application and process types under the 2005 Act) is proposed for approval unaltered. Costs which may be appropriated to the fees include all aspects of administering and maintaining the scheme, compliance and inspections, hearings and appeals costs, register and software, proportional share of overheads, policy and protocol development and consultations, legal services etc. It

should be noted that both Babergh and Mid Suffolk District Councils also have a limited base of gambling authorisations and activity upon which to apportion some of the cost elements (see draft principles document Schedule E for further information).

- 4.9 Responsibility for setting fees under the 2005 Act (to the extent that a licensing authority has delegated power in relation to fees) has been delegated by full council to the Licensing Act 2003 Committee, in accordance with Part 3 of the Council Constitution. Whilst not mandatory, it is proposed to coincide the fee review date together with the statement of principles review date for efficiency and transparency purposes.

5. LINKS TO JOINT STRATEGIC PLAN

- 5.1 The Council's Gambling 'Statement of Principles' is the overarching set of principles which guides the Councils in carrying out its Gambling licensing functions. The policy assists in supporting businesses to thrive and prosper and also to help residents in their health and wellbeing where necessary.

6. FINANCIAL IMPLICATIONS

- 6.1 This is a statutory function. The Licensing Team has to date undertaken the necessary preparatory work within existing resources. The resource, co-ordination of activity and costs associated with the consultation process will be shared between the two districts.
- 6.2 Mid Suffolk and Babergh Councils have the same application fee structure in place – being the maxima permissible under the Gambling Act 2005 fee regulations. Periodic fee reviews should take place to ensure that as far as possible fee income meets the cost to the Licensing Authority of administering and maintaining the function, and minimise burden on local taxpayers. Whilst compliance and inspections can be recovered in the fee scheme, enforcement activity should be met from general funding and costs incurred in that regard (such as prosecuting of unlicensed operators) may be recoverable via the courts.

7. LEGAL IMPLICATIONS/RISK MANAGEMENT

- 7.1 Failure to review, revise and re-consult upon the policy will result in legal challenge to Council decisions under the 2005 Act (including potentially by judicial review).
- 7.2 Failure to periodically review the fee structure in the context of cost recovery may disadvantage the Authority and local taxpayers, both in financial and reputational terms. Fees for local gambling businesses, permit applicants and activity organisers should be transparent, considered and not act as any unnecessary deterrent to such activities taking place in the district.
- 7.3 The risks that inherently apply to the Licensing Authority when carrying out its Gambling Act 2005 functions relate to promotion of the gambling licensing objectives, which 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.

8. CONSULTATIONS

- 8.1 This will be the fifth edition of the Council's 'Statement of Principles' under the Gambling Act 2005. The Licensing Team has the necessary experience, stakeholder contacts and networking in place to ensure that a wide and balanced consultation takes place. The consultation will take place over a minimum period of six weeks, through various channels/media. A joint notice will also be placed in the local press as part of this engagement process.
- 8.2 The 'Statement of Principles' document has been developed to be consistent across both Babergh and Mid Suffolk Councils (subject to councillor approval at each authority). There are similar amounts of gambling activity and type across both districts.
- 8.3 Adoption of the Gambling Act 2005 'Statement of Principles' is a function reserved for full Council at both Authorities.

9. EQUALITY ANALYSIS

- 10.1 There are no equality implications arising directly from this report. This is a statutory revision to an existing policy and with only minor amendments proposed. The Council recognises its obligations under the Equality Act 2010, in the exercise of its licensing functions, and shall have due regard to any comments received during the policy consultation on equality issues.

10. ENVIRONMENTAL IMPLICATIONS

- 10.1 There are no direct Environmental Implications arising from this report.

11. APPENDICES

Title	Location
(a) Statement of Principles (2019-2022) - Draft	Attached
(b) Summary Document of changes to the Statement of Principles	Attached
(c) Fee table for Gambling Act 2005 applications and processes (2019-2022)	Attached

12. BACKGROUND DOCUMENTS

- 12.1 Gambling Act 2005
- 12.2 Guidance to Licensing Authorities 5th Edition September 2015 (as amended September 2016).