

**REPORT OF THE HEAD OF HUMAN RESOURCES AND DEVELOPMENT**

**THIRD REVIEW OF THE GAMBLING ACT 2005 STATEMENT OF PRINCIPLES**

**REASON FOR REPORT**

1. Mid Devon District Council is required to set out and formally adopt a Statement of Principles advising how it would carry out its duties under the Gambling Act 2005. That statement has to be reviewed every three years and this is its third review.

**RECOMMENDATIONS**

1. That the Committee recommends the revised Statement of Principles attached to this report (Annex 1) be adopted by full Council, subject to the proposed amendments made following consultation responses (set out in Annex 4).

**RELATIONSHIP TO CORPORATE PLAN**

1. Well regulated gambling premises contribute to community well being

**FINANCIAL, LEGAL AND RISK ASSESSMENT IMPLICATIONS**

Any financial, legal and/or risk assessment implications are set out below:

<b>Financial</b>	None that are not contained within existing resources
<b>Legal</b>	The Council is required to adopt a Statement of Principles
<b>Risk Assessment</b>	If not properly adopted could be subject to legal challenge

## **CONSULTATION CARRIED OUT WITH :**

1. S.349 of the Gambling Act 2005 requires that the licensing authority consult 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; 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 the Act.

### **1.0 INTRODUCTION**

1.1 The Gambling Act 2005 ("the Act") came into force on 1 September 2007 and consolidated regulation of casinos, bingo, gaming machines, lotteries, betting and remote gambling in one Act.

1.2 The Act also created a new unified industry regulator, the Gambling Commission, which has responsibility for advising both central and local government on issues relating to gambling.

1.3 Mid Devon District Council has responsibilities under the Act to issue premises licences, permits and notices in respect of premises where it is proposed that gambling take place. The Council is also responsible for the registration of Small Society Lotteries.

1.4 The Act was based on three key principles, which are set out in section 1 of the Act:

- Gambling should not be a source of crime or disorder, associated with crime or disorder or be used to support crime;
- Gambling should be conducted in a fair and open way;
- Children and other vulnerable people should be protected from being harmed or exploited by gambling.

1.5 Section 349 of the Act requires all licensing authorities to prepare and publish a Statement of Principles that they intend to apply in exercising their functions under the Act. The Statement of Principles will last a maximum of three years.

1.6 The current Statement of Principles for Mid Devon District Council was formally adopted on 12 December 2012 and came into force on 31 January 2013.

### **2.0 REVISED STATEMENT OF PRINCIPLES**

2.1 The Act requires that the Statement of Principles be reviewed on a three yearly basis. The proposed Statement of Principles that was consulted on is attached as Annex 1.

2.2 As with previous versions, the new Statement of Principles has been written in pursuant to the provisions of the Gambling Act and also takes account of the Guidance issued under Section 25 of the Act by the Gambling Commission. This guidance provides a clear steer on what Statements of Principles should look to cover.

- 2.3 The Devon Licensing Officer Group also formed a small working party (on which this Council was represented) to look at what amendments / additions may be required to produce the draft document.

#### Amendments to the Statement of Principles

- 2.4 The suggested amendments are made for three main reasons; in response to legislative changes; to clarify issues; and minor structural changes to aid the flow of the document. A general overview of the main changes is given below. Amendments considered minor are not listed.

#### Interested Parties (Paragraph 8.3 and 8.4)

- 2.5 Information has been added to expand and clarify the factors this authority may take into account when determining whether a person is an interested party. This is information from Gambling Commission Guidance.

#### Enforcement (Paragraph 10.5)

- 2.6 A brief overview of the common points that Mid Devon officers will cover in a standard inspection is now provided.

#### Fees (Paragraph 13)

- 2.7 A statement regarding cost recovery has been added.

#### Local Risk Assessments (Paragraph 15)

- 2.8 The Gambling Commission has introduced new provisions in its social responsibility code within the Licence Conditions and Codes of Practice (LCCP), requiring operators to produce a local risk assessment which will assist local authorities when considering applications etc. The specific requirements are as follows:

- 2.9 From 6 April 2016 all non-remote licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy.

- 2.10 Furthermore, licensees must review (and update as necessary) their local risk assessments:

- to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks
- when applying for a variation of a premises licence

- in any case, undertake a local risk assessment when applying for a new premises licence.

2.11 These new requirements are supplemented by an ordinary code provision which states that licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

2.12 In line with the above a new section in the Statement of Principles has been inserted to cover the principles this district will apply.

#### Local Area Profiles (Paragraph 16)

2.13 The Guidance suggests that a Local Area Profile is a process of gathering and presenting information about a locality and any particular areas of concern. The section added in the Statement of Principles highlights that at present one has not been completed in this area but this may be reviewed in the future.

#### Duplication with other regimes – Planning (Paragraphs 17.15 and 17.16)

2.14 Two previous paragraphs have been removed as they are covered adequately in points 17.15 and 17.16.

#### Unlicensed Family Entertainment Centre Gaming Machine Permit (Paragraph 27)

12.15 This section has been rearranged but the content remains largely unchanged.

#### Members' Clubs (Paragraph 30.4)

12.16 This point has been added to clarify the information that Mid Devon District Council may consider when assessing whether or not a members club is genuine or not.

#### Small Society Lotteries (Paragraph 33)

12.17 This section has been added and provides a brief overview of the legislation and requirements in relation to Small Society Lotteries.

#### Appendices B, C and D

12.18 These have been added for the sake of reference and are directly from Gambling Commission Guidance.

### 3.0 **CONSULTATION**

3.1 S.349 of the Act requires that licensing authorities consult with:

- The chief officer of police
- Representatives of gambling businesses

- Representatives of people who, in the opinion of the authority, are likely to be affected by the exercise of the function.

3.2 The consultation took place between 20 July 2015 and 13 September 2015.

3.3 The draft policy was published on the Council's website and specific letters / emails were written to:

- Association of British Bookmakers
- British Amusement and Catering Trade Association
- British Beer and Pub Association
- Citizens' Advice Bureau
- Community Safety Partnership
- Churches Housing Action Team
- Devon & Cornwall Constabulary
- Devon County Council – Local Safeguarding Children's Board
- Devon County Council – Social Services / Education Department
- Devon and Somerset Fire and Rescue Service
- Environmental Health (MDDC)
- Certain existing licence holders / representatives
- Federation for Small Business (Mid Devon)
- Gamblers Anonymous
- Gambling Commission
- GamCare (a body that helps people with gambling problems)
- Mencap
- NSPCC
- Planning (MDDC)
- Primary Care Trust
- Town and Parish Councils

3.4 Two responses were received as well as one acknowledgement. The responses were received from Gosschalks Solicitors on behalf of the Association of British Bookmakers (ABB) and Coral Racing Limited. These are attached as Annexes 2 and 3 respectively.

3.5 Specific comments from these responses and recommended amendments to the Statement of Principles based on them are attached as Annex 4.

#### 4.0 **RECOMMENDATION**

4.1 It is recommended that the draft Statement of Principles originally consulted on is updated to reflect the amendments set out in Annex 4.

4.2 It is further recommended that the Statement of Principles (as amended) is adopted as our new policy and the Licensing Committee is asked to make this recommendation to Full Council on 4 November 2015.

## 5.0 **TIMESCALE**

5.1 The Council as the licensing authority for the gambling function is required to publish the adopted Statement of Principles no later than four weeks before the day on which it comes into effect. The effective date is 31 January 2016. It must be published on the Council's website and on a public notice board in or near the main office of the authority as a minimum requirement. It is proposed that it will be published in December, thus fulfilling our statutory requirements.

### **ANNEXES TO REPORT**

- ANNEX 1: Draft Statement of Principles**
- ANNEX 2: Response to consultation from Gosschalks Solicitors on behalf of the Association of British Bookmakers**
- ANNEX 3: Response to consultation from Coral Racing Limited**
- ANNEX 4: Proposed amendments to draft Statement of Principles**

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<b>Background Papers</b>	Gambling Commission Guidance to Licensing Authorities / LACORS guidance / Previous Statement of Principles
<b>File Reference</b>	Licensing/Gambling Act 2015
<b>Circulation of the Report</b>	Licensing Committee