

**Meeting:** Council

**Date:** 5 December 2018

**Wards Affected:** All

**Report Title:** Gambling Act 2005 'Statement of Principles 2019' (Gambling Policy)

**Is the decision a key decision?** Yes

**When does the decision need to be implemented?** 30<sup>th</sup> January 2019

**Executive Lead Contact Details:**

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## **1. Proposal and Introduction**

- 1.1 This report sets out the revised Statement of Principles (the Policy) for Torbay Council, relating to its responsibilities as Licensing Authority under the Gambling Act 2005 (the Act). It contains the principles under which the Licensing Authority will exercise its functions under the Act.
- 1.2 This Policy, once adopted, will replace the existing Statement of Principles and must be published on or before 30<sup>th</sup> January 2019. The Policy is attached at **Appendix 1** to this report.

## **2. Reason for Proposal and associated financial commitments**

- 2.1 Section 349 (1) of the Act requires that a Licensing Authority must prepare and publish a Statement of Principles that they propose to apply in exercising their functions under the Act. It further requires that it should be reviewed and re-published every three years.
- 2.2 The draft revised Policy for 2019, was agreed in principle by Licensing Committee on 19<sup>th</sup> July 2018. There followed a statutory consultation, which took place between 21<sup>st</sup> August and 16<sup>th</sup> October 2018.
- 2.3 The Council has a statutory responsibility under the Act to complete this process of review of the Policy by 3rd January 2019 and for implementation of the final document on or before 30<sup>th</sup> January 2019, that being the date specified by the Secretary of State, as the 'relevant appointed date' under the Act.

- 2.4 The proposals contained in this report will commit the Council financially in respect of:

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*There are no additional implications as a result of agreeing the recommendations to this report. All functions will continue to be conducted under existing budgets and fees set at full cost recovery subject to the maximum permitted fees as provided under the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007.*

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### **3. Recommendation(s) / Proposed Decision**

- 3.1 That the Statement of Principles 2019 (Gambling Policy), as set out in Appendix 1 of this report, be approved.

### **Appendices**

Appendix 1: Statement of Principles 2019

Appendix 2: Record of Decision

### **Background Documents**

None

## Section 1: Background Information

<b>1.</b>	<b>What is the proposal / issue?</b>  Section 349 (1) of the Act requires that a Licensing Authority must prepare and publish a Statement of Principles that they propose to apply in exercising their functions under the Act. It further requires that it should be reviewed and re-published every three years.
<b>2.</b>	<b>What is the current situation?</b>  The current Policy was published in January 2016. Under the terms of the Act, this will therefore expire in January 2019.  Following a full revision and consultation of the Policy, the matter, which cannot be delegated to a Committee, must now be considered and agreed by Full Council.
<b>3.</b>	<b>What options have been considered?</b>  There are no other options given that review and re-publication of the Policy is a statutory requirement.
<b>4.</b>	<b>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</b>  The Gambling Policy promotes in the main, the protection of children and vulnerable adults. However, in facilitating best practice through the gambling industry and promoting close partnerships with partners and various stakeholders, it also supports the other key targets of the corporate plan by contributing to measures that promote the health, safety and prosperity of Torbay visitors and residents.
<b>5.</b>	<b>How does this proposal contribute towards the Council's responsibilities as corporate parents?</b>  One of the three objectives of the Act is to protect children and vulnerable adults. The Policy outlines (amongst other matters) principles that should be followed in order to meet responsibilities under this objective.

<p><b>6.</b></p>	<p><b>How does this proposal tackle deprivation?</b></p> <p>Whilst the Act requires that the Licensing Authority should carry out its functions with a view to permitting gambling, all applicants and existing operators under the Act are required produce a Local Area Risk Assessment.</p> <p>The Local Area Risk Assessment should address any matters within the local area that should be considered in relation to the application or licence permission given. This consideration should include the nature of the local area, whether it is in a more deprived area, the general makeup of the area, whether it is near Schools, shelters e.g. homeless shelters etc.</p> <p>In assessing applications, the Licensing Authority would be looking to ensure that these matters have been considered and where appropriate, control measures have been put in place to address them.</p>
<p><b>7.</b></p>	<p><b>How does this proposal tackle inequalities?</b></p> <p>These matters are all considered under the Local Area Risk Assessment as outlined above.</p>
<p><b>8.</b></p>	<p><b>How does the proposal impact on people with learning disabilities?</b></p> <p>These matters are all considered under the Local Area Risk Assessment as outlined above.</p>
<p><b>9.</b></p>	<p><b>Who will be affected by this proposal and who do you need to consult with?</b></p> <p>Section 349 (3) of the Act specifies those persons and authorities that must be consulted. These are:</p> <ul style="list-style-type: none"> <li>i) The Chief Officer of Police</li> <li>ii) Gambling business operators and persons representing the interests of such operators</li> <li>iii) Persons who appear to represent the interests of those likely to be affected by gambling</li> </ul> <p>This Policy will affect every operator of, or applicant in respect of a gambling business. It lays out their roles and responsibilities under the Act and identifies how the Licensing Authority will carry out its own functions in this regard. Therefore, all business operators and any representatives of such operators were consulted.</p> <p>Gambling premises are frequented by members of the public and it is essential that their interests are considered. Targeted consultation therefore took place with key gambling support groups and charities as well as being published on the Council website in order to enable general comment. In support of the full public aspect of the consultation, messages were placed on social media to advise the public of the consultation, affording opportunity for them to comment.</p> <p>The Police and other Responsible Authorities were also consulted.</p>

10.	<p><b>How will you propose to consult?</b></p> <p>Consultation was by way of an online questionnaire, direct email to Responsible Authorities, Charity and Support Groups and promotion on social media sites.</p>
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<b>Section 2: Implications and Impact Assessment</b>	
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11.	<p><b>What are the financial and legal implications?</b></p> <p>This is a statutory function and as such legal implications are more likely were the Policy review not to be agreed. Failure to agree and publish a Policy on time, would undermine the power of the Licensing Authority, which in turn could have financial implications, which may stem from legal challenge.</p> <p>Staff costs and time resources will be met from existing budgets, fees are charged (subject to a maximum ceiling) at full cost recovery and as such there are no further perceived financial implications.</p>
12.	<p><b>What are the risks?</b></p> <p>As above</p>
13.	<p><b>Public Services Value (Social Value) Act 2012</b></p> <p>No</p>
14.	<p><b>What evidence / data / research have you gathered in relation to this proposal?</b></p> <p>The proposal is in line with statutory requirements, it follows best practice guidance and has been reviewed and assessed by the Gambling Commission.</p>
15.	<p><b>What are key findings from the consultation you have carried out?</b></p> <p>Following consultation, there was one response received. This was despite promoting the consultation on social media as well as direct contact with key consultees. Whilst the response answered only three of the consultation questions it was in strong agreement with the revisions made to the Policy.</p> <p>Whilst they did not submit an official consultation response, the Policy review was conducted in consultation with the Gambling Commission. The Commission reviewed the Policy with a view to legal compliance and best</p>

	practice and were in full support of the draft document. For this reason they made no official response.
<b>16.</b>	<b>Amendments to Proposal / Mitigating Actions</b> None

## Equality Impacts

17.	Identify the potential positive and negative impacts on specific groups		
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	GA05 – Requirement for local area risk assessments, so Gambling business need to evaluate local risk. This has been extended to include Unlicensed Family Entertainment Centres (amusement arcade premises), where they link to a Licensed Premises (UFEC's are otherwise not required to complete a Local Area Risk Assessment.		
People with caring Responsibilities			The Gambling Act 2005 underwent a full impact assessment at Central Government level prior to the Act being passed and receiving Royal assent. This Policy follows the full principles of the Act and associated guidance and the impact is therefore neutral.
People with a disability			As above
Women or men			As above
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			As above
Religion or belief (including lack of belief)			As above

	People who are lesbian, gay or bisexual			As above
	People who are transgendered			As above
	People who are in a marriage or civil partnership			As above
	Women who are pregnant / on maternity leave			As above
	Socio-economic impacts (Including impact on child poverty issues and deprivation)			As above
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			As above
<b>16</b>	<b>Cumulative Impacts – Council wide</b> (proposed changes elsewhere which might worsen the impacts identified above)	None		
<b>17</b>	<b>Cumulative Impacts – Other public services</b> (proposed changes elsewhere which might worsen the impacts identified above)	None		